

UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE

ETHYPHARM S.A. FRANCE AND
ETHYPHARM S.A. SPAIN,

Plaintiffs,

v.

BENTLEY PHARMACEUTICALS, INC.,

Defendant.

Civil Action No. 04-1300-SLR

JOINT APPENDIX OF DEPOSITION TRANSCRIPTS

**VOLUME I
(PAGES A-1 – A-309)**

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INDEX TO JOINT APPENDIX OF DEPOSITION TRANSCRIPTS

	Deponent	Page Nos.
1.	Ignacio Alvarez	JT-A-1 – JT-A-57
2.	Angel Perez de Ayala	JT-A-58 – JT-A-97
3.	Clemente Gonzalez Azpeitia	JT-A-98 – JT-A-197
4.	Adolfo de Basilio	JT-A-198 – JT-A-309
5.	Patrice Debregesas	JT-A-310 – JT-A-432
6.	Claude Dubois	JT-A-433 – JT-A-494
7.	Paul Fitzgibbons	JT-A-495 – JT-A-550
8.	Pierre Germain	JT-A-551 – JT-A-619
9.	Adolfo Herrera	JT-A-620 – JT-A-702
10.	Roseline Joannesse	JT-A-703 – JT-A-821
11.	Gerard Leduc	JT-A-822 – JT-A-893
12.	Yves Liorzou	JT-A-894 – JT-A-955
13.	Lawrence G. Meyer	JT-A-956 – JT-A-1011
14.	James R. Murphy	JT-A-1012 – JT-A-1113

15.	Michael D. Price	JT-A-1114 – JT-A-1200
16.	Concha Sanchez	JT-A-1201 – JT-A-1230

Page 1

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF DELAWARE

3 - - - - -

4 ETHYPHARM S.A. FRANCE and :
5 ETHYPHARM S.A. SPAIN, :
6 Plaintiffs, :
7 VS. : CASE NO.
8 BENTLEY PHARMACEUTICALS, : 04-13000-SLR
9 INC., :
10 Defendant. :
11 - - - - -

13 VIDEOTAPED DEPOSITION OF IGNACIO ALVAREZ,
14 a witness called by and on behalf of the
15 Plaintiffs, taken pursuant to the applicable
16 provisions of the Federal Rules of Civil
17 Procedure, before Sandra L. Bray, Registered
18 Diplomate Reporter, CSR Number 103593, and
19 Notary Public in and for Commonwealth of
20 Massachusetts, at the offices of Edwards Angell
21 Palmer & Dodge LLP, 111 Huntington Avenue,
22 Boston, Massachusetts, on Thursday, July 27,
23 2006, commencing at 8:42 a.m.

24

<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES: 2 Representing the Plaintiffs: 3 BAACH ROBINSON & LEWIS PLLC 4 1201 F Street, NW 5 Suite 500 6 Washington, D.C. 20004 7 BY: DWIGHT P. BOSTWICK, ESQUIRE</p> <p>9 Representing the Defendant: 10 EDWARDS ANGELL PALMER & DODGE LLP 11 111 Huntington Avenue 12 Boston, Massachusetts 02199 13 BY: CRAIG E. STEWART, ESQUIRE 14 SCOTT MAGEE, ESQUIRE</p> <p>16 Representing Laboratorios Belmac S.A.: 17 IBERFORO 18 28014 Madrid-CI 19 Marques de Cubas, 6 20 Madrid, Spain 21 BY: REBECA CORRAL GREGORIO, ESQUIRE 22 RAFAEL GARCIA-PALENCIA, ESQUIRE</p>	<p style="text-align: right;">Page 4</p> <p>1 INDEX 2 WITNESS: PAGE NO. 3 IGNACIO ALVAREZ 4 BY MR. BOSTWICK 8, 162 5 BY MR. STEWART 155 6 7 EXHIBITS 8 NO. DESCRIPTION PAGE NO. 9 10 1 Document to Mr. De Basilio, et al. from Mr. Igonet, dated 12-13-96 66 11 2 Letter to Mr. Igonet, et al. 12 from Mr. Alvarez, dated 12-17-96 75 13 3 Fax to Mr. Gonzalez from 14 Mr. De Basilio, dated 1-20-97 89 15 4 Fax to Mr. DeBreges from 16 5 Mr. Murphy, dated 1-28-97 94 17 6 Fax to Mr. Rodriguez from 18 Ms. Joannesse, dated 4-8-99 99 19 7 Document signed by 20 Mr. Gonzalez Azpelia on 3-2-98 103 21 Acuerdo de Confidencialidad, 22 four pages 103 23 8 Acuerdo de Confidencialidad 24 between Laboratorios Belmac and PharmAlliance 103</p>
<p style="text-align: right;">Page 3</p> <p>1 ALSO PRESENT: 2 Ivelissa I. Escalera, Translator 3 Kristin Zarnetske, Videographer</p>	<p style="text-align: right;">Page 5</p> <p>1 EXHIBITS, Continued 2 NO. DESCRIPTION PAGE NO. 3 10 Production Agreement 103 4 11 Fax to Mr. DeBreges from 5 Mr. Murphy, dated 4-9-99 109 6 12 Document headed "Confidential" 7 to Mr. Boudal, et al. from 8 Mr. De Basilio 110 9 13 Contrato de Fabricacion 112 10 14 Carta de Compromiso de Compra 112 11 15 Letter to Mr. De Basilio from 12 Mr. Herrera, dated 11-14-01 128 13 16 Confidentiality Agreement 136 14 17 Letter to Mr. Herrera from 15 Mr. Gadri, dated 12-6-01, 16 and Enclosure 139 17 18 Copy of E-mail to Mr. Bolling, 18 et al. from Mr. Fitzgibbons, 19 dated 1-22-02, and Bentley 20 Pharmaceuticals Operations 21 Update - 22 January 2002 141 22 19 Copy of E-mail to Mr. Alvarez 23 from Amal, dated 7-18-02 144 24 20 Side Letter to the Agreement 148</p>

2 (Pages 2 to 5)

<p style="text-align: center;">Page 6</p> <p>1 P R O C E E D I N G S 2 (The Spanish passport number as 3 identification of the deponent was noted 4 for the record.) 5 THE VIDEOGRAPHER: This is Tape 6 Number 1 of the videotaped deposition of 7 Mr. Ignacio Alvarez, taken by Plaintiffs, in the 8 matter of Ethypharm S.A. France and Ethypharm 9 S.A. Spain, Plaintiffs, versus Bentley 10 Pharmaceuticals, Defendant, in the United States 11 District Court for the District of Delaware, 12 Case Number 04-1300(SLR)(sic). This deposition 13 is being held on July 27th, 2006 at 14 approximately 8:42 a.m. 15 My name is Kristin Zarnetske. I'm a 16 legal videographer, representing Esquire 17 Deposition Services. The court reporter, also 18 in association with Esquire, is Sandra Bray. 19 This deposition is being held at Edwards Angell 20 Palmer & Dodge at 111 Huntington Avenue, Boston, 21 Massachusetts. 22 Will counsel present please introduce 23 themselves for the record? 24 MR. BOSTWICK: Dwight Bostwick on</p>	<p style="text-align: center;">Page 8</p> <p>1 EXAMINATION BY MR. BOSTICK: 2 Q. Good morning, Mr. Alvarez. 3 A. (Through translator): Good morning. 4 Q. Have you ever had a deposition taken before? 5 A. No. 6 Q. Let me explain a little bit about the process so 7 that you are comfortable. This is a process 8 where I have an opportunity as Ethypharm's 9 attorney to ask you questions about a lawsuit 10 here in the United States. You understand that? 11 A. Yes, I understand. 12 Q. And you have been sworn in by the court 13 reporter. 14 A. Correct. 15 Q. So you are required to provide truthful answers. 16 A. Yes. 17 Q. And the court reporter will take down the 18 questions and the answers, and we'll get a 19 written record of what happens today. 20 A. Very good. 21 Q. And then you'll have an opportunity to review 22 that, and if there's something you need to 23 correct, you'll have an opportunity to do that 24 as well.</p>
<p style="text-align: center;">Page 7</p> <p>1 behalf of the Plaintiffs. 2 MR. STEWART: Craig Stewart on behalf 3 of Bentley Pharmaceuticals, Incorporated and the 4 witness, Mr. Alvarez. Also present for Palmer & 5 Dodge is Scott Magee. Present for Laboratories 6 Belmac, Mr. Alvarez's employer, his counsel, 7 Rafael Garcia-Palencia and Rebeca Corral. 8 THE VIDEOGRAPHER: Thank you. Will 9 the court reporter please swear in the 10 interpreter? 11 IVELISSA I. ESCALERA, 12 a translator in the Commonwealth of 13 Massachusetts, who, being by me first duly sworn 14 to translate from the English language into the 15 Spanish language and from the Spanish language 16 into the English language, thereupon acted as 17 translator for the witness herein. 18 THE VIDEOGRAPHER: Will the 19 interpreter please swear in the witness? 20 IGNACIO ALVAREZ, having duly sworn or 21 affirmed that his testimony would be the truth, 22 the whole truth, and nothing but the truth, 23 testified as follows: 24 * * *</p>	<p style="text-align: center;">Page 9</p> <p>1 A. Very good. 2 Q. We also have a translator here today. 3 A. Who? 4 THE TRANSLATOR: Joke. 5 Q. And she's here for your benefit to help 6 translate the questions and answers. 7 A. Very good. 8 Q. Do you speak any English? 9 A. Yes. 10 Q. If you hear a translation that you think is not 11 correct, please feel free to clarify that. 12 A. Thank you very much. 13 Q. And if you don't understand my questions, please 14 ask me to clarify or repeat. 15 A. Agreement. 16 Q. And we'll take a number of breaks today. 17 A. Very good. 18 Q. But if you need a break at some point, you just 19 tell me. 20 A. Very good. 21 Q. The only thing we will not do is take a break in 22 between a question and an answer. 23 A. I understand. 24 Q. And we have agreed as attorneys in this case</p>

<p style="text-align: right;">Page 10</p> <p>1 that after the deposition has started, you will 2 not discuss the substance of your testimony with 3 your attorneys. 4 A. In agreement. 5 Q. Do you have any questions for me regarding the 6 process? 7 A. For now, no. 8 Q. Let me begin by asking you some questions about 9 your employment at Ethypharm. 10 A. Go ahead. 11 Q. When were you employed at Ethypharm in Spain? 12 A. Year 1992. 13 Q. Until what time? 14 A. Until June 2001. 15 Q. In 1992, how did you come to be employed at 16 Ethypharm Spain? 17 A. I went to see Mr. De Basilio, that he was the 18 general manager at Ethypharm Labs. It was just 19 a casual visit. He is part of relatives of my 20 family, you know, distant relatives. Then he 21 explained to me that there was a job, if I was 22 interested in the job, and then from there, we 23 take to get on and we start talking about it. 24 Q. Let me make one comment about the question and</p>	<p style="text-align: right;">Page 12</p> <p>1 helping him to kind of analyze the financial 2 situation and the accounting situation that was 3 taking place at the moment. 4 Q. How many people were employed at Ethypharm Spain 5 when you joined in 1992? 6 A. Including Mr. De Basilio and myself? 7 Q. Yes. 8 A. Four. 9 Q. Who were the other two? 10 A. There was a gentleman by the name of Eloi 11 Gonzalez. There was a Mrs. She was a 12 secretary, but I don't remember her name. 13 Q. How old were you when you began with Ethypharm 14 Spain in 1992? 15 A. 24. 16 Q. Had you had other jobs before? 17 A. Yes. 18 Q. What were they? 19 A. Beforehand, I used to work temporarily at a 20 telephone company, and before that, a financial 21 company. 22 Q. What did you do for the financial company? 23 A. It was more of investment and finance type of an organization, and they had bought the rights of</p>
<p style="text-align: right;">Page 11</p> <p>1 answer process. If you have a slightly longer 2 answer, you may want to stop in the middle of 3 the answer so that the translator has an 4 opportunity to translate accurately. 5 A. Okay. In agreement. 6 MR. STEWART: I would join in that 7 suggestion as someone who often speaks too much. 8 It does help if you speak in shorter sentences 9 for the translation. 10 A. Very good. I'm not experienced at this, but I'm 11 going to try my best. 12 Q. Okay. You indicated that you are related to 13 Mr. Adolfo de Basilio? 14 A. Yes. 15 Q. Can you explain how you're related to Mr. De 16 Basilio? 17 A. I believe that his father was cousins to my 18 grandfather or grandmother. 19 Q. In 1992, what was the job that you were hired to 20 do? 21 A. Basically to help Mr. Basilio. 22 Q. Would it be fair to say you were an assistant to 23 Mr. De Basilio? 24 A. No. At the beginning, I basically started</p>	<p style="text-align: right;">Page 13</p> <p>1 some products that they wanted to begin 2 commerсing in Spain. 3 Q. And what was your job for that company? 4 A. To look for clients that would be interested in 5 purchasing these products. 6 Q. Going back to your position -- your first 7 position at Ethypharm, did you have a specific 8 title for your job? 9 A. At the moment that I began with them? 10 Q. Yes. 11 A. No. 12 Q. What -- could you describe your duties for me? 13 A. During that time, I was working just part time. 14 I was not familiar with the pharmaceutical 15 sector, so the beginning was learning the 16 business and learning, you know, what was the 17 pharmaceutical industry, but I was capable of 18 doing small analysis of the company's statements 19 or -- status. 20 Q. And who did you report to when you began? 21 A. Adolfo de Basilio. 22 Q. Did you ever change positions -- 23 MR. STEWART: That is -- 24 Q. -- at Ethypharm?</p>

<p style="text-align: right;">Page 14</p> <p>1 A. No. As time went by and as the company grew, I 2 got change of responsibilities, so I accumulated 3 more responsibilities.</p> <p>4 Q. Did you ever hold an official title at Ethypharm 5 Spain?</p> <p>6 A. On my visitor's ID or in terms of payroll, my 7 category?</p> <p>8 Q. Either one.</p> <p>9 A. On my visitor's ID card, in the year either 1998 10 or '99, the title of director of finance was 11 printed. And on my -- in terms of categories in 12 the company, it showed that I was the 13 administrator -- boss of administrators.</p> <p>14 Q. And did you hold those positions from 1998 or 15 '99 until you left in 2001?</p> <p>16 A. Yes.</p> <p>17 Q. You indicated that your responsibilities 18 increased over time at Ethypharm, correct?</p> <p>19 A. Yes.</p> <p>20 Q. Could you describe that for me?</p> <p>21 A. The issue was that throughout the years, the 22 company kept on growing, and it did not grow in 23 terms of employees. So since there was only a 24 few of us, we just had to do everything that was</p>	<p>1 Q. Were you told by someone specifically why you 2 were being let go?</p> <p>3 A. Yes.</p> <p>4 Q. Who discussed this with you?</p> <p>5 A. Mr. Basilio.</p> <p>6 Q. What did Mr. Basilio tell you?</p> <p>7 A. That they were dismantling the company in Spain 8 and for that reason, I had to be let go.</p> <p>9 Q. When you indicated you think you know why you 10 were let go, is this what you were thinking of?</p> <p>11 A. Correct.</p> <p>12 Q. Is there any other reason you know that you were 13 let go?</p> <p>14 A. No, as far as I know.</p> <p>15 Q. Was anyone else let go around the same time?</p> <p>16 A. When you say around the same time, what exactly 17 do you mean, the same month?</p> <p>18 Q. Let's start with the same month.</p> <p>19 A. No.</p> <p>20 Q. During 2001, were other people let go at 21 Ethypharm Spain?</p> <p>22 A. Yes.</p> <p>23 Q. Who and when?</p> <p style="text-align: right;">MR. BOSTWICK: I'm sorry. Who were</p>
<p style="text-align: right;">Page 15</p> <p>1 necessary.</p> <p>2 Q. Did you report directly to Mr. De Basilio the 3 entire time you were employed at Ethypharm 4 Spain?</p> <p>5 A. Yes.</p> <p>6 Q. You indicated that you left the employment with 7 Ethypharm Spain in June of 2001?</p> <p>8 A. No, I indicated that I stopped working there, 9 but you didn't ask me why.</p> <p>10 Q. Let me first focus on the date. What date did 11 you leave Ethypharm?</p> <p>12 A. June 30th, 2001.</p> <p>13 Q. And I take it you're certain about the date?</p> <p>14 A. Yes, very sure.</p> <p>15 Q. How is it that you recall the exact date?</p> <p>16 A. Just the same that I remember the date that I 17 was employed.</p> <p>18 Q. What was the exact date you were employed?</p> <p>19 A. May 4th, 1992.</p> <p>20 Q. Okay. What was the reason that you stopped 21 working at Ethypharm Spain?</p> <p>22 A. I was let go.</p> <p>23 Q. Do you know the reason that you were let go?</p> <p>24 A. I think so.</p>	<p style="text-align: right;">Page 17</p> <p>1 they?</p> <p>2 A. Eloi Gonzales and Ignacio Salmador.</p> <p>3 Q. And when were they let go from Ethypharm Spain?</p> <p>4 A. During the month of January, the year 2001.</p> <p>5 Q. When you left the company in June 30th, 2001, 6 how many people were at Ethypharm Spain?</p> <p>7 A. Can you tell me the time period again, please?</p> <p>8 Q. When you left in June 30th, 2001.</p> <p>9 A. Yes, I believe two people were left.</p> <p>10 Q. Who were they?</p> <p>11 A. Adolfo de Basilio, him, I'm sure of. And then, 12 I believe there was a secretary, that I believe 13 her name was Jose Maria.</p> <p>14 Q. Did either Eloi Gonzales or Ignacio Salmador 15 ultimately work for Laboratorios Belmac in 16 Spain?</p> <p>17 A. No.</p> <p>18 Q. What were their positions in Ethypharm Spain?</p> <p>19 A. Eloi Gonzalez was an assistant to Mr. De 20 Basilio. That was his last position. And 21 Ignacio Salmador was in charge of regulations.</p> <p>22 Q. Okay. Would it be fair to say that he was in 23 charge of regulatory issues?</p> <p>24 A. Yes, regulatory issues of pharmaceutical issues.</p>

<p style="text-align: right;">Page 18</p> <p>1 Q. While you were employed at Ethypharm Spain, were 2 you in charge of relationships with Ethypharm 3 customers?</p> <p>4 MR. STEWART: Objection. Withdraw the 5 objection until the translation. Have you 6 completed?</p> <p>7 THE TRANSLATOR: Yes.</p> <p>8 MR. STEWART: Objection, vague as to 9 "in charge."</p> <p>10 A. Can you repeat the question, please?</p> <p>11 Q. While you were employed at Ethypharm Spain, did 12 you have any responsibility with respect to 13 clients -- the relationship with clients of 14 Ethypharm Spain?</p> <p>15 A. I had responsibilities in terms of billing them, 16 in terms of the payments, in terms of the 17 invoicing.</p> <p>18 Q. Was Mr. De Basilio more directly responsible for 19 the relationships with those customers?</p> <p>20 MR. STEWART: Objection as to the 21 definition of "relationships." You may answer.</p> <p>22 A. Okay. As I understand, he was general manager, 23 but his objective in terms of Ethypharm France 24 was to develop clients and to retain the</p>	<p style="text-align: right;">Page 20</p> <p>1 A. This was twelve years ago, so it's not easy, but 2 I do remember that it was approximately the year 3 1994. It was the date that we met Mr. Murphy at 4 the offices of Laboratorios Belmac at the Paseo 5 de la Castellano.</p> <p>6 Q. Is that in Madrid?</p> <p>7 A. Yes.</p> <p>8 Q. Who was present?</p> <p>9 A. As I remember, it was Mr. Murphy, Mr. De 10 Basilio, and myself, but I think at the very 11 beginning of the meeting, Mr. Federico de Salas 12 was also present.</p> <p>13 Q. Who is Mr. Federico de Salas?</p> <p>14 A. He was a financial director of Laboratorios 15 Belmac at that time.</p> <p>16 Q. What company did you understand Mr. Murphy was 17 from when you met him in 1994?</p> <p>18 A. Well, what happened was that he was coming to 19 the meeting representing Belmac Laboratories 20 because at that time Belmac Laboratories did not 21 have a general manager.</p> <p>22 Q. What was Mr. Ayala's situation in 1994 at this 23 meeting?</p> <p>24 A. He was no longer working at Laboratorios Belmac.</p>
<p style="text-align: right;">Page 19</p> <p>1 clients.</p> <p>2 Q. Did you have more direct contact with Ethypharm 3 clients or did Mr. Adolfo de Basilio?</p> <p>4 A. Mr. De Basilio, obviously, definitely.</p> <p>5 Q. Did you -- while you were working at Ethypharm 6 Spain, did you play a role in negotiating 7 contracts with Laboratorios Belmac?</p> <p>8 A. With Mr. De Basilio, yes.</p> <p>9 Q. Did you ever meet with Jim Murphy?</p> <p>10 MR. STEWART: Time?</p> <p>11 A. Yes.</p> <p>12 Q. While you were working at Ethypharm Spain?</p> <p>13 A. Yes.</p> <p>14 Q. On how many occasions?</p> <p>15 A. I calculate there were two times.</p> <p>16 Q. Did -- was Mr. Adolfo de Basilio with you on 17 both of those occasions?</p> <p>18 A. The first time, for sure it was with Mr. De 19 Basilio. The second time, I don't remember 20 date, where, when, you know, anything at all. I 21 just remember that it happened.</p> <p>22 Q. Can you tell me about the first time you met 23 with Mr. Murphy? And please begin with the date 24 and who was there.</p>	<p style="text-align: right;">Page 21</p> <p>1 I think he was let go or they got into some 2 agreement to, you know, split the relationship 3 or -- employment.</p> <p>4 Q. Mr. Gonzalez was not yet general manager of 5 Laboratorios Belmac?</p> <p>6 A. No.</p> <p>7 Q. Do you recall with more specificity the actual 8 date?</p> <p>9 A. It's very difficult. I could tell you that it 10 was in the last quarter of the year, but I 11 cannot tell you for sure.</p> <p>12 Q. Do you recall Mr. Murphy coming over to Spain on 13 a number of occasions in late '94 and early 14 1995?</p> <p>15 A. I don't understand the question.</p> <p>16 Q. Do you recall other occasions around late 1994 17 and early 1995 that Mr. Murphy came over to 18 Spain?</p> <p>19 A. No, I do not remember, but I would like to make 20 a comment to my response to the previous 21 question.</p> <p>22 Q. Okay.</p> <p>23 A. When I responded to you that the meeting took 24 place in the last quarter of 1994, what I do</p>

<p style="text-align: right;">Page 22</p> <p>1 remember was that the days were very short and 2 that we left the meeting late night. So, again, 3 it could have been, you know, the last quarter 4 of 1994 or the beginning or the beginning of 5 1995.</p> <p>6 Q. Okay.</p> <p>7 THE TRANSLATOR: What he meant by late 8 night, it was that -- you know, the sun had come 9 down already.</p> <p>10 Q. How long was the meeting?</p> <p>11 A. It was a long meeting.</p> <p>12 Q. Tell me what you can recall about the meeting.</p> <p>13 A. For me, it was a difficult meeting because today 14 I speak a little bit of English. During that 15 time, I didn't speak much of English.</p> <p>16 Q. Mr. De Basilio does speak English?</p> <p>17 A. Perfectly.</p> <p>18 Q. Okay. And the entire meeting took place in 19 English?</p> <p>20 A. Yes, but, of course, Mr. De Basilio clarified 21 things for me.</p> <p>22 Q. How many hours do you think the meeting lasted?</p> <p>23 A. About three hours.</p> <p>24 Q. Tell me what you can recall about the substance</p>	<p>1 meetings and conversations with Adolfo de 2 Basilio outside your presence during this time 3 period?</p> <p>4 A. Yes. You know, by the way, one of the 5 fundamental issues was the good English that 6 Mr. De Basilio spoke. I remember that he drove 7 himself to Zaragoza to show him, you know, his 8 own plant, and he would take the responsibility 9 of being the interpreter, you know, the 10 companion person.</p> <p>11 Q. So just so I'm clear, you're saying that 12 Mr. Adolfo Basilio took Mr. Murphy to see his 13 own plant in Spain?</p> <p>14 A. Yes.</p> <p>15 Q. And to act as the interpreter?</p> <p>16 A. Yes. I remember during that period of time 17 hardly no one spoke English at Belmac.</p> <p>18 Q. How many months after this initial meeting with 19 Mr. Murphy did Mr. Gonzalez become general 20 manager?</p> <p>21 A. I think that when he was working and took the 22 responsibilities as general manager, he did not 23 have the title of general manager, but he 24 took -- he was taking the administrative point</p>
<p style="text-align: right;">Page 23</p> <p>1 of that meeting.</p> <p>2 A. The main issue of the meeting was that 3 Laboratorios Belmac had -- was left with no 4 administration, and Ethypharm had a lot of 5 interest with the labs. When I meant no 6 administration, I'm talking about the general 7 management. So the point was what was going to 8 be the future of Laboratorios Belmac, you know, 9 what were the strategies, you know, who was 10 going to be the person in charge. And at the 11 beginning, you know, they had two candidates, 12 you know, during that period of time, and they 13 were people that were already within the 14 company.</p> <p>15 During that period of time, 16 Mr. Federico de Salas was also leaving the 17 company. So, of course, the situation was 18 delicate. So we talked and talked and talked it 19 over, and then I know that there were some 20 meetings afterwards. And then after a period of 21 time, Clemente Gonzalez introduced himself as 22 medical director and afterwards as general 23 manager.</p> <p>24 Q. Is it fair to say that Mr. Murphy had other</p>	<p style="text-align: right;">Page 25</p> <p>1 of the plant.</p> <p>2 Q. When do you think --</p> <p>3 A. But approximately, it was about a month, a month 4 and a half.</p> <p>5 Q. What was approximately a month or a month and a 6 half?</p> <p>7 A. The time that he was coming to see us to 8 understand the relationship with Ethypharm, you 9 know, and it was that kind of thing are you the 10 person or are you not the person, but eventually 11 he became the person.</p> <p>12 Q. Okay. I'm not sure who you're talking about 13 now, whether it's Clemente Gonzalez or Jim 14 Murphy or Adolfo Basilio. Can you state your 15 answer again using the names of the individuals 16 you're talking about?</p> <p>17 A. I'm going to give you a brief statement of what 18 we just said. Mr. Murphy came to Spain towards 19 the end of the director -- general director 20 Perez de Ayala. During the period of time that 21 there was no general manager, I know that he 22 took the responsibilities of the job, and I do 23 know that he went with Mr. De Basilio to 24 Zaragoza and at Zaragoza, Mr. De Basilio helped</p>

<p style="text-align: right;">Page 26</p> <p>1 him as an interpreter and getting around. 2 Q. And "he" in that sentence is Mr. Murphy? 3 A. Yes, that's who I'm referring to. And I 4 estimate that he was there for maybe a week, 5 maybe ten days. I don't remember if he, you 6 know, returned or not, but then Mr. Clemente 7 Gonzalez came to visit Laboratories Ethypharm, 8 and we had a meal, a very pleasant meal. And 9 Mr. Gonzalez explained to us that he had a 10 strategy in mind very different from the past 11 because in the company there were very abusive 12 expenses. He was going to cut all these 13 expenses so we could -- so the place could be 14 rentable.</p> <p>15 THE TRANSLATOR: I'm just going to... 16 A. Oh, profitable.</p> <p>17 THE TRANSLATOR: Excuse me. So the 18 company will be profitable.</p> <p>19 Q. When was this meal with Mr. Gonzalez? How long 20 after your first meeting with Mr. Murphy was it? 21 A. I wish I could, you know, organize all my 22 thoughts and put together all these dates, but 23 the truth is it has been a long period of time, 24 and I honestly cannot tell you specific, you</p>	<p style="text-align: right;">Page 28</p> <p>1 Q. Did you understand that he came from the company 2 in Tampa, Belmac Corporation? 3 A. Yes, of course. 4 Q. Did Mr. -- can you tell me anything else about 5 what was spoken about at the first meeting with 6 Mr. Murphy? 7 A. Yes. Mr. Murphy didn't know or was aware of 8 even the existence of Ethypharm Labs, as far as 9 I knew or understood. So Mr. De Basilio 10 explained to him who was Ethypharm, you know, 11 what they manufactured at Ethypharm, what were 12 the products at Ethypharm, just giving him a 13 brief statement of the entire company of 14 Ethypharm. And Mr. Murphy did exactly the same 15 thing. Because I remember that Mr. De Basilio 16 thought that Mr. Murphy was someone from the 17 finance department, and at that meeting, he 18 discovered that he had worked previously at the 19 pharmaceutical industry. 20 Q. That Mr. Murphy had worked -- strike that. At 21 the meeting, Adolfo de Basilio discovered that 22 Mr. Murphy had worked in the pharmaceutical 23 industry; is that correct? 24 A. Of course. At the pharmaceutical industry,</p>
<p style="text-align: right;">Page 27</p> <p>1 know, what took place when, organize, you know, 2 all the circumstances that were taking place and 3 all the dates. 4 Q. Going back to your first meeting with Mr. Murphy 5 and Mr. De Basilio, was that the first time you 6 had ever met Mr. Murphy? 7 A. Yes. 8 Q. Was that the first time you had ever heard 9 Mr. Murphy's name? 10 A. Not only myself but also Mr. De Basilio. 11 Q. Did -- at the time of this first meeting with 12 Mr. Murphy, did you understand that there was a 13 parent company of Laboratorios Belmac called 14 Belmac Corporation? 15 A. Well, we knew that there was a company in Tampa, 16 and supposedly, they were very wealthy and it 17 was a big company, but we really didn't know the 18 specifics about them. 19 Q. Did you understand that Mr. Murphy had a job in 20 that company in Tampa? 21 A. I didn't -- I wasn't clear about anything. 22 Q. Did you understand that he came from the United 23 States, Mr. Murphy? 24 A. Yes, of course.</p>	<p style="text-align: right;">Page 29</p> <p>1 there is, like, two categories, you know, the 2 technical people and the people that count the 3 money. 4 Q. And so Mr. Adolfo de Basilio discovered that 5 Mr. Murphy wasn't just a person who counted 6 money but also had a technical background in 7 pharmacy? 8 MR. STEWART: Objection, objection as 9 to how this witness can know what Mr. De Basilio 10 knew or didn't know with respect to Mr. Murphy. 11 You may answer. 12 A. Can you repeat the question? 13 (Reporter read back the last question.) 14 A. I cannot testify to this, but, you know, it was 15 something that was commented in the meeting 16 because Mr. De Basilio -- something that was 17 commented afterwards because Mr. De Basilio 18 loved the technical people, you know, he was 19 very friendly with his colleagues, the technical 20 staff. 21 Q. Who was, Mr. De Basilio? 22 A. Yes. 23 MR. STEWART: Dwight, I'm going to 24 need to take a short break in connection with my</p>

<p style="text-align: right;">Page 30</p> <p>1 move. So if you find a good stopping place in 2 the next couple of minutes.</p> <p>3 MR. BOSTWICK: Let's go ahead and stop 4 now, but before we stop, let me make a 5 suggestion about answering the questions to help 6 make sure that the record is clear.</p> <p>7 Q. Often you are using the word "he" in long 8 sentences, and it would be helpful to use the 9 actual names of the people so we know exactly 10 who you're talking about.</p> <p>11 A. In agreement.</p> <p>12 Q. And then, one other comment is that Mr. Stewart 13 has the right to object to questions, and that's 14 perfectly acceptable and it's his 15 responsibility, but you can answer the question 16 unless Mr. Stewart tells you specifically not 17 to.</p> <p>18 A. Now, I just got -- I just realized of this.</p> <p>19 MR. BOSTWICK: Okay. Why don't we 20 take a short break.</p> <p>21 THE WITNESS: Very good.</p> <p>22 THE VIDEOGRAPHER: The time is 23 9:38 a.m. We're going off the record. 24 (Recess)</p>	<p style="text-align: right;">Page 32</p> <p>1 about the manufacturing plant in Zaragoza and 2 about how each company were going to work 3 together.</p> <p>4 Q. How which companies were going to work together?</p> <p>5 A. Belmac Labs and Ethypharm Labs Spain.</p> <p>6 Q. Do you recall -- is that all you recall about 7 what Mr. Murphy said at this meeting?</p> <p>8 A. Yes. As I remember, yes.</p> <p>9 Q. Do you recall anything else that Mr. De Basilio 10 said at the meeting?</p> <p>11 A. The thing is that I don't remember specifics. I 12 remember the general subject of the meeting, 13 which is what I had already explained to you, 14 but I don't remember the specifics. You know, 15 this happened a long time ago, so I can't 16 remember.</p> <p>17 Q. How about after this first meeting? Did you 18 have any further discussions with Mr. Murphy?</p> <p>19 A. Never again.</p> <p>20 Q. Did you have discussions with Mr. De Basilio 21 after this meeting about the meeting?</p> <p>22 A. I suppose so. You know, we used to converse 23 about everything. So I'm pretty sure that we 24 did make comments about it.</p>
<p style="text-align: right;">Page 31</p> <p>1 THE VIDEOGRAPHER: The time is 2 9:55 a.m. We're back on the record.</p> <p>3 Q. Hello. When we were -- before we took our 4 break, we were discussing a meeting involving 5 you, Mr. Murphy, Adolfo de Basilio around 1994 6 or 1995, correct?</p> <p>7 A. Correct.</p> <p>8 Q. I believe you had indicated that Mr. Murphy 9 discussed or -- Mr. Murphy spoke about general 10 strategies; is that correct?</p> <p>11 A. I didn't say a strategy. It was to get to know 12 what was the relationship with Ethypharm. If I 13 used the word "strategies," I most likely 14 confused the words.</p> <p>15 Q. What else do you recall about the discussion 16 with Mr. Murphy?</p> <p>17 A. I don't think anything else.</p> <p>18 Q. Did he talk about the present relationship 19 between Ethypharm and Laboratorios Belmac?</p> <p>20 MR. STEWART: Objection, the "he" in 21 that question.</p> <p>22 MR. BOSTWICK: Mr. Murphy.</p> <p>23 A. As I understand -- as I explained before, it was 24 just more to get to know each other, you know,</p>	<p style="text-align: right;">Page 33</p> <p>1 Q. Can you remember anything about those 2 conversations with Mr. De Basilio?</p> <p>3 A. I do remember -- now that we talk about it, I do 4 remember that Adolfo de Basilio mentioned that 5 he had recommended Clemente Gonzalez as -- to be 6 general manager.</p> <p>7 Q. So I understand, Mr. De Basilio recommended to 8 Mr. Murphy?</p> <p>9 A. Yes, I suppose so because, as I said before, 10 there were two candidates, you know, running for 11 the position, and Mr. De Basilio kind of gave 12 more weight to Mr. Clemente Gonzalez.</p> <p>13 Q. Do you recall who the other candidate was?</p> <p>14 A. No, I don't remember. I know it was someone 15 that left the company, but since I never met the 16 person, I don't remember.</p> <p>17 Q. Do you recall whether Mr. Murphy went to Paris, 18 France to meet with Ethypharm France 19 representatives around this time period?</p> <p>20 A. That I remember? Never, but I don't know.</p> <p>21 Q. Mr. Alvarez, I believe you also mentioned in 22 your testimony that you met Mr. Murphy on a 23 second occasion; is that correct?</p> <p>24 A. Okay. The thing is that I believe that I</p>

<p style="text-align: right;">Page 34</p> <p>1 crossed him at some point because I remember 2 that I used to go to the plant in Zaragoza or 3 Madrid sometimes with Federico Gonzalez, so what 4 I meant is that I had crossed him and that's 5 what I mean that I have seen him, that I just 6 saw him somewhere.</p> <p>7 MR. STEWART: You're talking crossed 8 paths?</p> <p>9 THE TRANSLATOR: Crossed paths, you 10 know, they were in the same place.</p> <p>11 Q. Is it correct then that on the second occasion 12 you're thinking about, that you didn't actually 13 sit down and meet with Mr. Murphy?</p> <p>14 A. Never again I met with Mr. Murphy.</p> <p>15 Q. Did you ever speak with him specifically on the 16 telephone?</p> <p>17 A. Never.</p> <p>18 Q. Okay. Is it fair to say that the only time that 19 you had a conversation with Mr. Murphy is this 20 lengthy meeting in 1994 or 1995?</p> <p>21 A. Yes, the one that we were about three hours in 22 the meeting in Laboratorios Belmac in Paseo de 23 la Castellano.</p> <p>24 Q. And that's the only time you had a conversation</p>	<p style="text-align: right;">Page 36</p> <p>1 Q. What did you say?</p> <p>2 A. What I said was that Ethypharm France through 3 their subsidiary, Adolfo de Basilio, which is 4 Ethypharm Spain maintained relationship with 5 Laboratorios Belmac.</p> <p>6 Q. Who at Ethypharm France discussed this with 7 or -- participated with Mr. De Basilio?</p> <p>8 A. I will answer -- I would answer your question, 9 you know, the opposite. Can I answer it?</p> <p>10 Q. Sure.</p> <p>11 A. Okay. As far as I understand or from my 12 understanding, Mr. De Basilio at Ethypharm Spain 13 was using the tools of Ethypharm France to 14 complete his objective in Spain.</p> <p>15 Q. And who did Mr. De Basilio contact in France to 16 meet these objectives?</p> <p>17 A. There was a technical department, which their 18 responsibility was to make sure that we had good 19 manufacturing practices -- who kept good 20 manufacturing practices. So in order for Belmac 21 manufacturing practice to be evaluated, he will 22 contact the different people of this technical 23 department to know what was the situation -- the 24 manufacturing situation of the Laboratorios</p>
<p style="text-align: right;">Page 35</p> <p>1 with Mr. Murphy, correct?</p> <p>2 A. Yes.</p> <p>3 Q. I'd like to talk a little bit now about the 4 relationship between Ethypharm and Laboratorios 5 Belmac.</p> <p>6 A. Can you specify which Ethypharm?</p> <p>7 Q. Okay. Yes. Let me ask you, did you have an 8 understanding that Ethypharm France had a 9 relationship with Laboratorios Belmac?</p> <p>10 A. Yes, through Ethypharm Spain and the director at 11 the time, Adolfo de Basilio.</p> <p>12 Q. Who at Ethypharm France participated in this 13 relationship with either Laboratorios Belmac or 14 Bentley in the U.S.?</p> <p>15 MR. STEWART: I'm going to object 16 because I think the form of that question is 17 going to invite confusion in the answer. You 18 may answer.</p> <p>19 A. I didn't understand clearly your question 20 because you mentioned quite a few companies.</p> <p>21 Q. You have indicated that Ethypharm France had 22 some involvement in this -- in a relationship 23 with Laboratorios Belmac, correct?</p> <p>24 A. No, that's not what I said.</p>	<p style="text-align: right;">Page 37</p> <p>1 Belmac in Spain. It is very common that all 2 laboratories before they manufacture a product 3 at a certain place, they perform an audit just 4 to make sure that they are in accordance to the 5 general manufacturing practices, and this audit 6 is handed to the manufacturing lab. So in this 7 way, you know, they can make any correction or 8 any other changes necessary so they can become 9 the manufacturing people of this product.</p> <p>10 MR. STEWART: Can I have the question 11 back, please, that was asked?</p> <p>12 (Reporter read back the last question 13 and answer.)</p> <p>14 MR. STEWART: Thank you.</p> <p>15 Q. Did Mr. De Basilio also talk with Patrice 16 DeBregues and Gerard Leduc regarding the 17 Laboratorios Belmac relationship?</p> <p>18 A. Mr. Patrice DeBregues and Mr. Leduc were the 19 bosses of Mr. De Basilio.</p> <p>20 Q. So is the answer that he did discuss these 21 matters with his bosses?</p> <p>22 A. In front of me? In my presence?</p> <p>23 Q. That you are aware of.</p> <p>24 A. Like any other company, you know, everybody</p>

<p style="text-align: right;">Page 38</p> <p>1 reports to their boss. 2 Q. And did he also get approval from his bosses to 3 conduct his operations at Ethypharm Spain? 4 A. The thing is that I was never present at the 5 meetings with -- of Mr. De Basilio with 6 Mr. DeBreges or Mr. Leduc. 7 Q. Who was -- strike that. While you were working 8 at Ethypharm, who did the general managers of 9 Laboratorios Belmac report to? 10 MR. STEWART: As far as he was aware 11 of. 12 Q. As far as you understood? 13 A. Can you repeat the question? I'm not 14 100 percent clear of the question. 15 Q. While you were at -- while you were working at 16 Ethypharm Spain, did the general managers of 17 Laboratorios Belmac report to Jim Murphy? 18 A. I don't have an idea. I don't know. As far as 19 my understanding, no. 20 Q. When you say as far as your understanding, no, 21 what do you base that on? 22 THE TRANSLATOR: He used a word 23 "conocimiento," which I translated to 24 "understanding," and corrected me that</p>	<p style="text-align: right;">Page 40</p> <p>1 Laboratorios Belmac had no experience in the 2 process of pelletization or omeprazole? 3 A. No. When I arrived, I didn't know if they did 4 or did not. 5 Q. So you didn't know one way or the other? 6 A. Correct. 7 Q. Did you understand that Ethypharm was providing 8 the machines, the technical knowledge, and the 9 training to produce omeprazole and other 10 products using pelletization? 11 A. To whom? 12 Q. For Ethypharm. 13 A. There's something that I didn't understand 14 correct in the question. You're talking about 15 Ethypharm to Ethypharm? 16 Q. While you were at Ethypharm, did you understand 17 that Ethypharm provided to Laboratorios Belmac 18 machines, technical knowledge, and training for 19 the production of omeprazole and other products 20 using micropelletization? 21 MR. STEWART: Objection, multiple 22 questions. 23 A. Effectively, there's two questions -- two 24 different questions in this question. I'm going</p>
<p style="text-align: right;">Page 39</p> <p>1 "conocimiento" is not "understanding." 2 Understanding is knowledge? 3 (Verbal exchange between translator and 4 the witness.) 5 THE TRANSLATOR: "Conocimiento" is 6 "knowledge." 7 Q. My question is, do you have an understanding or 8 do you have any knowledge about who the general 9 managers of Laboratorios Belmac reported to 10 while you were working at Ethypharm? 11 MR. STEWART: Objection, two 12 questions. You may answer. 13 A. No, I have no idea. 14 Q. Let's discuss the relationship with Laboratorios 15 Belmac. While you were working at Ethypharm 16 Spain, is it true that Laboratorios Belmac 17 manufactured omeprazole for Ethypharm? 18 A. Yes. 19 Q. Is it also true that Laboratorios Belmac 20 manufactured other products using a process of 21 microgranulation for Ethypharm? 22 A. Yes. 23 Q. When you started working at Ethypharm Spain in 24 1992, was it your understanding that</p>	<p style="text-align: right;">Page 41</p> <p>1 to divide the question in two responses. In 2 terms of the omeprazole product, when I began at 3 Ethypharm Labs, this technology, referring to 4 omeprazole -- 5 THE TRANSLATOR: And he used the word 6 "entraga" meaning it was already in existence, 7 the machinery and everything else. 8 A. But it was not Belmac Labs. The name was 9 Rimafar, and at the same time, there was another 10 product that they have tested at Rimafar that 11 the name was fenofibrate. 12 Q. In English, fenofibrate? 13 A. Yes. In terms of other products, you know, 14 definitely along the years, there was 15 documentation -- manufacturing documentation. 16 For example, for aspirin, they send the 17 manufacturing documents from Madaus Laboratories 18 or someone else, and others were sent directly 19 from France. 20 Q. Let me see if I understand. While you were at 21 Ethypharm Spain, Ethypharm provided machines to 22 Laboratorios Belmac to produce omeprazole, 23 correct? 24 A. When I arrived at Ethypharm, the very first</p>

Page 42

Page 44

- 1 machines were already installed at Rimafar Labs.
 2 Q. Which then became Laboratorios Belmac?
 3 A. Yes, I believe that it was bought by
 4 Laboratorios.
 5 Q. Laboratorios Belmac?
 6 A. At that point, I didn't know who were the
 7 investors. Now I know that it was Belmac
 8 Corporation.
 9 Q. And Belmac Corporation later became Bentley
 10 Pharmaceuticals, correct?
 11 A. I believe so.
 12 Q. Is it more accurate to say then that while you
 13 were at Ethypharm Spain, Laboratorios Belmac
 14 used machines provided by Ethypharm to
 15 manufacture omeprazole?
 16 A. Yes.
 17 Q. And Laboratorios Belmac used technology and
 18 know-how from Ethypharm to manufacture
 19 omeprazole?
 20 MR. STEWART: Objection as to time.
 21 A. At what time?
 22 Q. While you were at -- while you were employed by
 23 Ethypharm Spain.
 24 A. I was there for nine years. That's a lot of

Page 43

Page 45

- 1 years. In terms of omeprazole manufacturing, I
 2 remember that at the beginning there was a lot
 3 of problems. Towards the end of the years, you
 4 know, it wasn't clear; nobody know what belonged
 5 to whom.
 6 Q. Where do you gain that understanding?
 7 A. Because the product that came from the
 8 technology first provided by Ethypharm, it did
 9 not work. Afterwards, we had to request
 10 documents from Belmac to, you know, understand,
 11 you know, the formula, the methods, you know,
 12 because there was quite a few variations to make
 13 the product workable. You know, I think it was
 14 something that it could have been put together,
 15 you know, a part from one side, a part from the
 16 other side, and something else became.
 17 Q. Are you -- do you have a background to
 18 understand the technology differences between
 19 the intellectual property and know-how that we
 20 are discussing?
 21 MR. STEWART: Objection as to form.
 22 Is the question does he have training,
 23 education?
 24 MR. BOSTWICK: Uh-huh.

- 1 MR. STEWART: Okay.
 2 Q. Do you have technical training to understand the
 3 distinctions between who -- between the
 4 technology that we're talking about here?
 5 A. If we talk about technical training in terms of
 6 pharmaceuticals or biology, no, I don't have
 7 that education -- that type of education, but in
 8 the last few years, I have gathered quite a lot
 9 of knowledge, and the knowledge and the
 10 experience, you know, have given me a lot of
 11 understanding -- a lot of knowledge.
 12 Q. What years are you talking about?
 13 A. The last three years.
 14 Q. Which years are those?
 15 A. Approximately from year 2003 to 2006.
 16 Q. We'll come back to this a little bit, but --
 17 we'll come back to this a little bit later.
 18 A. Very good.
 19 Q. Did you understand that after Laboratorios
 20 Belmac manufactured omeprazole that that
 21 omeprazole came back to Ethypharm and was then
 22 sold to Ethypharm's customers?
 23 A. Yes. By the way, one of the clients was Belmac
 24 itself.

- 1 Q. So one of the clients that Ethypharm sold its
 2 omeprazole to was Belmac?
 3 A. Yes.
 4 Q. And that's true for the whole time period that
 5 you were employed by Ethypharm, correct?
 6 A. Yes -- no.
 7 Q. What's wrong with that statement?
 8 A. Please excuse me. It's not during all the time
 9 that I was employed by Ethypharm.
 10 Q. Okay. Explain to me the distinction that you
 11 were making.
 12 A. There are two periods. At the period of time,
 13 the active omeprazole product, it was coming
 14 from the manufactured -- manufacturing of the
 15 active for its transformation to pellets without
 16 charges because it was property of the
 17 manufacturing part.
 18 THE TRANSLATOR: He was using the word
 19 "activo," which I just clarified with him. It
 20 means raw materials.
 21 A. So it returned to the manufacturing party, and
 22 it was only charged the service. So Ethypharm
 23 was not selling the product. It was selling a
 24 service.

12 (Pages 42 to 45)

Page 46

Page 48

1 So Belmac will purchase the product,
 2 which was the omeprazole pellets, through a
 3 distributor from the raw material party.

4 Q. Let's pause right there.

5 MR. STEWART: I think the combination
 6 of the technical piece, to me anyway, has made
 7 that translation incomprehensible.

8 MR. BOSTWICK: That's what I was going
 9 to say.

10 Q. I'm not sure if it was a problem with your
 11 answer or a problem with the translation, but I
 12 don't think that answer made much sense in
 13 English. And I would ask you -- you have
 14 described that there are two periods of time.
 15 What time period is the first period of time?

16 MR. STEWART: And before that answer,
 17 the question is what time period is the first
 18 period of time, and I would ask that the
 19 translator and Mr. Alvarez discuss, and if the
 20 translator has any doubt as to the sense and the
 21 content of the answer, that the translator seek
 22 to clarify her understanding before giving us
 23 the translation. I think that will help.

24 THE TRANSLATOR: My other question,

1 Belmac during a period of time until year, we
 2 can say, 1997, and in the last few years, they
 3 bought the product directly from Ethypharm.

4 Q. Okay. So in the last few years, Laboratorios
 5 Belmac would manufacture omeprazole for
 6 Ethypharm and then buy it back from Ethypharm?

7 A. Correct. If we're meaning the last few years
 8 from 1997 until -- and I'm not sure until when.

9 Q. Did the relationship function in the same manner
 10 from 1997 until you left the employment of
 11 Ethypharm?

12 A. Yes.

13 Q. Is it true that the omeprazole that was
 14 manufactured by Laboratorios Belmac was
 15 Ethypharm's and then Ethypharm sold the product
 16 to other customers, including Belmac?

17 A. It was true, and Belmac also sold that product
 18 to their clients during that period of time.

19 Q. Is it true that Belmac would obtain the product
 20 from Ethypharm and then sell it to their
 21 clients?

22 A. Yes.

23 Q. Okay. Other than Laboratorios Belmac, who were
 24 some of Ethypharm's other clients for omeprazole

Page 47

Page 49

1 you referred to period of time. Are we
 2 referring to dates?

3 MR. BOSTWICK: Let's go off the
 4 record. Go off the record.

5 THE VIDEOGRAPHER: Stand by. The time
 6 is 10:38 a.m. on July 27th, 2006. This is the
 7 end of Tape Number 1. We're off the record.

8 (Discussion off the record)

9 THE VIDEOGRAPHER: The time is
 10 10:41 a.m. on July 27th, 2006. This is Tape
 11 Number 2.

12 Q. Mr. Alvarez, we were seeking clarification of
 13 your last answer. Can you provide clarification
 14 for us?

15 A. So I'm going to tell you what took place, and if
 16 you have any other questions, then you can ask
 17 me.

18 Q. Perfect.

19 A. The question that you asked me at the beginning,
 20 if I understood it correctly, if Ethypharm was
 21 manufacturing the product and selling it to
 22 Belmac or their clients. The answer is that,
 23 first of all, Belmac will buy the product from a
 24 distributor even if it was manufactured at

1 while you were working for Ethypharm?

2 A. The first client, it was Uquifa. Uquifa was the
 3 manufacturer of the raw materials, and then
 4 Uquifa will sell the product to their own
 5 clients.

6 Q. Can we spell Uquifa first?

7 THE TRANSLATOR: I wrote it down, and
 8 he's telling me that I wrote it down correctly.
 9 It's U Q U I F A.

10 MR. STEWART: Could we establish the
 11 time period that we are now talking about?

12 Q. Was Uquifa a client of Ethypharm's for
 13 omeprazole for the whole period of time you were
 14 employed at Ethypharm Spain?

15 A. No.

16 Q. What period of time was Uquifa a client of
 17 Ethypharm's for omeprazole?

18 A. You know, there were intermittent periods of
 19 time.

20 Q. Can you give me an approximation?

21 A. Uquifa had for the transformation of their raw
 22 material two manufacturing parties. One was
 23 Ethypharm, and the other was in Turkey.
 24 Because -- due to the problems -- quality

13 (Pages 46 to 49)

Page 50

Page 52

1 problems that the formula contained, then they
 2 will send to Turkey for the transformation of
 3 the product, and then they will sell it to their
 4 own clients. And because --

5 THE TRANSLATOR: He used a word
 6 "cumplian," and I asked him, "What do you mean
 7 by, cumplian what?" And he meant the quality.
 8 A. Because they couldn't come up with good quality.
 9 The periods of time that they were buying from
 10 Uquifa were intermittent periods of time for a
 11 specific client.

12 Q. Can you estimate for me the time period where
 13 Uquifa was a client of Ethypharm for omeprazole?
 14 A. During the whole period of time, but
 15 intermittent periods of time.

16 MR. BOSTWICK: Intermittent?

17 THE TRANSLATOR: Yes, intermittent.

18 A. That was the problem.

19 Q. How about the percentage of the time from 1992
 20 to 2001? Was it 40 percent, 50 percent,
 21 80 percent?

22 MR. STEWART: Objection as to whether
 23 we're talking about batches of product, whether
 24 we're talking about months when Uquifa was a

1 MR. STEWART: Can you repeat the
 2 question?

3 (Reporter read back the last question.)

4 Q. Was Uquifa also a major client for the purchase
 5 of omeprazole?

6 A. You know, I have a problem where we're talking
 7 about periods of time because we cannot define
 8 this as the nine years completely. Up until
 9 1997, maybe 1998 approximately, the product
 10 doesn't provide the quality that most clients
 11 are expecting, and this can be proved or checked
 12 by the books that Ethypharm kept in Spain, of
 13 course, you know, how omeprazole was developed
 14 from those years on.

15 Q. How about from the time period of 1998 through
 16 2001, was Uquifa a client of Ethypharm's for the
 17 purchase of omeprazole?

18 A. It was a client -- as I say before, it was a
 19 client for the transformation of omeprazole.

20 Q. Did Uquifa purchase omeprazole from Ethypharm --
 21 strike that. Did -- from 1998 to 2002, did
 22 Uquifa purchase the omeprazole product from
 23 Ethypharm?

24 A. I need to clarify something. In Spain, we

Page 51

Page 53

1 customer of Ethypharm. Vague is my objection.

2 Q. You can answer.

3 A. It's very complicated to explain this. The
 4 point is that the only one that remains as a
 5 client after the distributor is Uquifa because,
 6 as I said before -- it's still complicated --
 7 Belmac will buy the product through the
 8 distributor of Uquifa and during the period of
 9 time that Uquifa was developing themselves within
 10 the market with the product from Turkey.

11 Q. Is it fair to say that throughout the period of
 12 time you were employed at Ethypharm Spain,
 13 Uquifa was an important client of Ethypharm's
 14 for omeprazole?

15 A. Not really. It was important as a provider, a
 16 supplier.

17 Q. Were they also a client for the purchase of
 18 Ethypharm for large periods between 1992 and
 19 2001?

20 MR. STEWART: Did you mean -- sorry.
 21 Did you mean a purchaser of Ethypharm or
 22 purchaser of omeprazole?

23 MR. BOSTWICK: Purchaser of
 24 omeprazole.

1 distinguish very well two points when we talk
 2 about the finance area; you know, the sales of
 3 products and the sale of services. You know,
 4 during the time that Belmac was selling a
 5 product, what they were selling to Uquifa, it
 6 was a service.

7 Q. What was the service that Ethypharm was selling
 8 to Uquifa from the period 1998 to 2001?

9 A. The transformation of the raw materials in
 10 pellets.

11 Q. Okay. Who were some of Ethypharm's other
 12 clients for either the transformation of
 13 omeprazole or the sale of the product of
 14 omeprazole?

15 THE TRANSLATOR: Of Uquifa? I'm
 16 sorry. Can you repeat the question? I lost the
 17 lapse.

18 (Reporter read back the last question.)

19 A. Do you want me to list them from memory or just
 20 to mention another -- one other?

21 Q. If you could list them.

22 A. These are all labs. Belmac, Uquifa, Cinfa,
 23 Leciva, AfricPharm, PharmAlliance, Avenirzor,
 24 JulPharm, Searle do Brasil, a Chinese lab that I

14 (Pages 50 to 53)

<p style="text-align: right;">Page 54</p> <p>1 cannot remember the name, Hans Rahn, and a 2 Russian lab that I cannot remember the name. I 3 think these were all, but maybe I'm missing one 4 or so.</p> <p>5 Q. Let me go over these and make sure the record is 6 clear.</p> <p>7 MR. STEWART: The one I didn't get is 8 the something Brazil.</p> <p>9 Q. We know Belmac and Uquifa. Uquifa, U Q U I F A, 10 is that correct?</p> <p>11 MR. BOSTWICK: I'll tell you what, 12 Craig. Why don't we take a break, and he will 13 write these down, and then we can just copy them 14 for the court reporter? Would that be 15 acceptable for you?</p> <p>16 MR. STEWART: Yes. Do you want to -- 17 this is in terms of spellings and so forth?</p> <p>18 MR. BOSTWICK: Exactly. Just so that 19 we have it at this point, and then we'll take a 20 break. Okay?</p> <p>21 MR. STEWART: Yeah, sure.</p> <p>22 MR. BOSTWICK: Thanks. We can go off 23 the record.</p> <p>24 THE VIDEOGRAPHER: The time is</p>	<p style="text-align: right;">Page 56</p> <p>1 A. Yes, but there's other clients and other 2 products.</p> <p>3 Q. I see. But these are Ethypharm's clients and 4 not Laboratorios Belmac clients or other 5 people's clients for the period ending in 2001?</p> <p>6 A. Yes, although some of them may have left and go 7 with -- and have gone with competitors before 8 2001.</p> <p>9 MR. BOSTWICK: Why don't I simply 10 have -- why don't I pass this list to the court 11 reporter and perhaps Craig could read off the 12 names while she types them in so you can both 13 see them. Is that fair?</p> <p>14 MR. STEWART: I'll do that. (Document handed to counsel.)</p> <p>15 MR. STEWART: The list that has been 16 handed to me has the following names: Belmac, 17 Uquifa, Cinfa, Leciva, AfricPharm, 18 PharmAlliance, Avenzor, JulPharm spelled 19 J U L P H A R M, Searle, S E A R L E, do Brazil, 20 quote, Chinese lab, end quote; Hans Rahn, 21 H A N S, separate word R A H N, and the last is 22 Russian lab at Georgia.</p> <p>23 MR. BOSTWICK: Thank you for that.</p>
<p style="text-align: right;">Page 55</p> <p>1 11:02 a.m. We're going off the record. 2 (Recess)</p> <p>3 THE VIDEOGRAPHER: The time is 4 11:14 a.m. We're back on the record.</p> <p>5 Q. Mr. Alvarez, before we took our break, you had 6 provided a list of names for us, specifically a 7 list of companies that were clients of Ethypharm 8 for the purchase of omeprazole; is that correct?</p> <p>9 A. Yes.</p> <p>10 Q. And you have -- so we could get correct 11 spellings of these companies, you have written 12 out the spellings of these companies, correct?</p> <p>13 A. Correct. Yes, but each of the companies will 14 add to the name "labs."</p> <p>15 Q. So you wrote Belmac, it would be Belmac 16 Laboratorios?</p> <p>17 A. You're correct. When we say Belmac, we mean 18 Belmac Labs. And these are the clients of 19 omeprazole, not the clients of Ethypharm.</p> <p>20 Q. Now, actually, that's a new statement, and 21 that's actually what I'm trying to do here. I'm 22 trying to figure out who were the clients of 23 Ethypharm for the purchase of omeprazole. Is 24 that what this list is?</p>	<p style="text-align: right;">Page 57</p> <p>1 MR. STEWART: You can check that if 2 you want.</p> <p>3 Q. What role did you play in having communications 4 with these clients while you were at Ethypharm 5 Spain?</p> <p>6 A. We need to be specific because the relationships 7 were different among them. Some companies -- 8 some companies were manufacturers and clients. 9 Other ones were supplier and client, and others 10 were just clients.</p> <p>11 Q. What -- let's talk about Cinfa. Was Cinfa both 12 a client and a manufacturer?</p> <p>13 A. No.</p> <p>14 Q. Just a client of Ethypharm's for the purchase of 15 omeprazole?</p> <p>16 A. Yes.</p> <p>17 Q. Did you have a specific role in dealing with 18 Cinfa while you were at Ethypharm?</p> <p>19 A. Officially, the finance part.</p> <p>20 Q. Did you have a contact with Cinfa that you 21 specifically called or contacted?</p> <p>22 A. Yes.</p> <p>23 Q. Who was that?</p> <p>24 A. The position or the person or the name of the</p>

<p style="text-align: right;">Page 58</p> <p>1 person?</p> <p>2 Q. Both.</p> <p>3 A. The name of the person is David Zubeldia, and he 4 was the person in charge of sales, the boss of 5 sales.</p> <p>6 THE TRANSLATOR: Excuse me. Sorry, 7 sorry.</p> <p>8 A. Of purchases.</p> <p>9 Q. The boss of purchases.</p> <p>10 THE TRANSLATOR: Yes.</p> <p>11 MR. BOSTWICK: And why don't you spell 12 what you have there?</p> <p>13 THE TRANSLATOR: David, D A V I D; 14 Zubeldia, Z as in zebra, U, B as in boy, 15 E L D I A.</p> <p>16 Q. And for Leciva, were they more than just a 17 client of Ethypharm's for the purchase of 18 omeprazole?</p> <p>19 A. No, only client.</p> <p>20 Q. Did you have a contact person at Leciva while 21 you were working for Ethypharm?</p> <p>22 A. Yes.</p> <p>23 Q. Who was that?</p> <p>24 A. Position or name?</p>	<p style="text-align: right;">Page 60</p> <p>1 while you were working at Ethypharm?</p> <p>2 A. The owner, but I only had phone contact with 3 him, and he was very aggressive.</p> <p>4 Q. Do you recall his name?</p> <p>5 A. Right now, I don't remember, but if it comes to 6 mind, I will tell you later.</p> <p>7 Q. Okay. PharmAlliance, were they more than just a 8 client of Ethypharm's for the purchase of 9 omeprazole?</p> <p>10 A. No.</p> <p>11 Q. Just a client?</p> <p>12 A. They were only client.</p> <p>13 Q. Did you have a contact at PharmAlliance while 14 you were working at Ethypharm?</p> <p>15 A. Yes, the same person that was working at 16 AfricPharm at the beginning, and towards the 17 end, I did have some contact with the owner, 18 which is female, of PharmAlliance.</p> <p>19 Q. And you don't recall her name?</p> <p>20 A. Yes.</p> <p>21 Q. You do?</p> <p>22 A. Amal Lamari.</p> <p>23 THE TRANSLATOR: Amal, A M A L.</p> <p>24 Lamari, L A M A R I.</p>
<p style="text-align: right;">Page 59</p> <p>1 Q. Both.</p> <p>2 A. The name is -- first name Jana, J A N A; last 3 name Machova, M as in mom, A C H O V A, and I 4 believe she was the person in charge of 5 international suppliers in Czech or 6 Czechoslovakia.</p> <p>7 Q. Did you have any other contacts at Leciva, you 8 personally?</p> <p>9 A. No, although I knew one other person in the 10 company.</p> <p>11 Q. Who is that?</p> <p>12 A. There was a gentleman that came to see the 13 Belmac manufacturing plant at Zaragoza by the 14 name of Jan Sotola. First name spelled J A N. 15 Last name, S O T O L A.</p> <p>16 Q. What time period did Mr. Sotola come to 17 Zaragoza?</p> <p>18 A. I don't know.</p> <p>19 Q. It was while you were working for Ethypharm?</p> <p>20 A. Yes.</p> <p>21 Q. And how about AfricPharm? Were they more than 22 just a client of Ethypharm's for omeprazole?</p> <p>23 A. No, only client.</p> <p>24 Q. Did you have a contact person at AfricPharm</p>	<p style="text-align: right;">Page 61</p> <p>1 Q. And is this Avenzor?</p> <p>2 A. Yes.</p> <p>3 Q. Were they a client of Ethypharm's for the 4 purchase of omeprazole?</p> <p>5 A. Yes.</p> <p>6 Q. Anything else?</p> <p>7 A. No, nothing else.</p> <p>8 Q. Okay. Did you have a contact at that company 9 while you were working at Ethypharm?</p> <p>10 A. I don't remember.</p> <p>11 Q. JulPharm, were they a client of Ethypharm's for 12 the purchase of omeprazole?</p> <p>13 A. Yes.</p> <p>14 Q. Anything else?</p> <p>15 A. No.</p> <p>16 Q. And did you have a contact at JulPharm while 17 working at Ethypharm?</p> <p>18 A. Yes, but I don't remember. It was just phone 19 contact.</p> <p>20 Q. And how about Searle do Brazil; is that correct?</p> <p>21 A. Yes.</p> <p>22 Q. They were a client of Ethypharm's for the 23 purchase of omeprazole, correct?</p> <p>24 A. Yes.</p>

16 (Pages 58 to 61)

Page 62

- 1 Q. Any other relationship with Ethypharm?
 2 A. No.
 3 Q. And did you have a contact with that company
 4 while you were working for Ethypharm?
 5 A. Yes.
 6 Q. Who was that?
 7 A. I had two persons that I contacted with. One
 8 person belong at Ethypharm Brazil, which name
 9 was -- her name is Barbara Oliveira.
 10 MR. BOSTWICK: Could you spell that,
 11 please?
 12 THE TRANSLATOR: Barbara,
 13 B A R B A R A; Oliveira, O L I V E I R A.
 14 Q. And the other?
 15 A. And the other people came from United States,
 16 not from Brazil, to perform an audit at the
 17 plant. It was a big guy. And this was a person
 18 that performed the audit, and, you know, I make
 19 sure that I went with them. Anthony,
 20 A N T H O N Y, Jakaitis, J as in Jose, A, K as
 21 in kite, A T I S.
 22 Q. The next company you had written down is a
 23 Chinese lab that you can't recall the specific
 24 name of the lab. Do you recall whether they

- 1 Q. Did you have a contact person at Hans Rahn while
 2 you were working at Ethypharm?
 3 A. I did have a contact. I don't remember the
 4 name. It was a Swiss company that they bought
 5 the product for somebody else. It was kind of
 6 complicated.
 7 Q. How about the Russian lab? Did they have a
 8 client relationship with Ethypharm for the
 9 purchase of omeprazole?
 10 A. Yes.
 11 Q. Did they have another relationship with
 12 Ethypharm that you were aware of?
 13 A. No.
 14 Q. Did you have a contact person at that Russian
 15 lab while you were working at Ethypharm?
 16 A. I tried.
 17 Q. Did you succeed?
 18 A. No. It was the only client that I couldn't get
 19 money from or get paid from that I had in my
 20 life.
 21 Q. This list of Ethypharm clients, can you tell me
 22 who are the largest three or four clients of
 23 Ethypharm for the purchase of omeprazole while
 24 you were working at Ethypharm?

Page 63

- 1 were a client of Ethypharm's for the purchase of
 2 omeprazole?
 3 A. Yes.
 4 Q. Did they have any other relationship with
 5 Ethypharm that you were aware of?
 6 A. No.
 7 Q. Did you have a contact at this Chinese lab while
 8 you were at Ethypharm?
 9 A. Not directly.
 10 Q. Did you have an indirect contact?
 11 A. Yes.
 12 Q. Who was that?
 13 A. Ethypharm China.
 14 Q. I see. Who was your direct contact in Ethypharm
 15 China?
 16 A. I think it was Alexander Williams, but I'm not
 17 100 percent sure, but I think it was him.
 18 Q. How about Hans Rahn? Is that a company that had
 19 a client relationship with Ethypharm for the
 20 purchase of omeprazole?
 21 A. Yes.
 22 Q. Did they have any other relationship with
 23 Ethypharm that you know of?
 24 A. No.

- 1 A. During what period of time? The entire time or
 2 a specific time?
 3 Q. The whole time.
 4 A. Belmac, Cinfa, Leciva.
 5 MR. BOSTWICK: Thank you.
 6 Q. When you left Ethypharm in 2001, who were
 7 Ethypharm's biggest clients for the purchase of
 8 omeprazole?
 9 A. Belmac.
 10 Q. What percentage of omeprazole did Belmac buy
 11 from Ethypharm?
 12 MR. STEWART: That is the percentage,
 13 percentage of what?
 14 Q. Percentage from all of the omeprazole
 15 manufactured in Spain.
 16 A. You know, my memory is pretty good, but this is
 17 beyond. You know, I don't remember.
 18 Q. Okay. Who were two or three of the other
 19 largest clients in 2001, clients of Ethypharm's
 20 for the purchase of omeprazole?
 21 A. More than the ones that I already have
 22 mentioned?
 23 Q. The top two or three other than Belmac.
 24 A. Cinfa and Leciva and maybe even -- afterward --

17 (Pages 62 to 65)

<p style="text-align: right;">Page 66</p> <p>1 after Cinfa and Leciva, PharmAlliance. 2 MR. BOSTWICK: PharmAlliance. 3 THE TRANSLATOR: PharmAlliance.</p> <p>4 Q. I'd like to show you a few documents now, 5 Mr. Alvarez. 6 MR. BOSTWICK: We'll mark that as 7 Exhibit 1. 8 (Document to Mr. De Basilio, et al. from 9 Mr. Igonet, dated December 13, 1996 was 10 marked Exhibit Number 1 for 11 identification.) 12 MR. BOSTWICK: And, Craig, I do have a 13 translation behind it because it's a Spanish 14 document. 15 Q. I'd ask you to take a look at that document and 16 tell me if you recognize it. 17 A. Do we have a translation of this document? 18 Q. Well, I have an English translation. I 19 mistakenly thought that that was in Spanish, but 20 it's in French; isn't it? 21 A. Yes, this is French. 22 Q. You can tell by looking at this document that 23 you were someone who was a recipient of the 24 document, correct?</p>	<p style="text-align: right;">Page 68</p> <p>1 but I obviously am not. Nevertheless, from the 2 English translation and the French version, is 3 there anything you can tell me about this 4 document? 5 A. I think that I have seen this document. I don't 6 remember the document. You know, you can ask me 7 questions, but I don't remember the document. 8 Q. Did you contact various people at Ethypharm 9 France to describe what was happening with the 10 relationship with Laboratorios Belmac -- 11 MR. STEWART: Objection. Sorry. 12 Q. -- during the period of time you were employed 13 at Ethypharm? 14 A. Yes. 15 Q. Did Adolfo de Basilio also have contacts with 16 Ethypharm Spain for that purpose -- Ethypharm 17 France? 18 A. Yes, we had conversed about this issue, of 19 course. 20 Q. When you had conversations with Ethypharm France 21 about omeprazole or the relationship with 22 Laboratorios Belmac, who did you speak with? 23 A. With the person that I most often spoke with was 24 with Mr. Igonet and with his assistant.</p>
<p style="text-align: right;">Page 67</p> <p>1 A. Yes. 2 Q. When you received a document in French, was it 3 normally translated for you in Spanish or 4 English? 5 A. If it was an important document, it was 6 translated into Spanish. If it was not, then it 7 was just verbally read to me in Spanish. 8 Q. I see. Can you read English? 9 A. A little. 10 Q. Well, let's see -- I have a translation copy 11 here. And if you're able by either looking at 12 the French version or the English version to 13 tell me what you recall about this document. 14 Then that is my question. 15 MR. STEWART: May we go off the record 16 for a minute? 17 MR. BOSTWICK: Sure. 18 THE VIDEOGRAPHER: The time is 19 11:43 a.m. We're going off the record. 20 (Discussion off the record) 21 THE VIDEOGRAPHER: The time is 22 11:47 a.m. We're back on the record. 23 Q. Mr. Alvarez, I apologize. I had thought I was 24 going to be showing you a document in Spanish,</p>	<p style="text-align: right;">Page 69</p> <p>1 Q. Who was his assistant? 2 A. Katherine Calami. 3 Q. Did you ever have conversations with Patrice 4 DeBregues? 5 A. Do you mean related to work, business or just 6 nonbusiness related? 7 Q. I mean relating to omeprazole or the 8 relationship with Laboratorios Belmac or 9 Bentley. 10 A. Usually, no. 11 Q. Mr. Leduc? 12 A. Even less. 13 Q. Claude Dubois? 14 A. Very little. 15 Q. Yves Liorzou? 16 A. No. 17 Q. Pierre Germain? 18 A. No. 19 Q. Roseline Joannesse? 20 A. Yes. 21 Q. How often would you speak with Roseline 22 Joannesse or Mr. Igonet regarding omeprazole or 23 Belmac or Bentley? 24 A. There are too many questions at the same time.</p>

<p style="text-align: right;">Page 70</p> <p>1 In my opinion, each concept should be separated. 2 Q. How often did you speak with Mr. Igonet 3 regarding omeprazole? 4 A. In respect to the situation of the company, not 5 just omeprazole because we had other products 6 and other business, you know, he was the finance 7 director at Ethypharm France, and I report the 8 financial issues directly to Eric Igonet or to 9 his assistant. 10 Q. How often would you make these reports? 11 A. Every month. 12 Q. In writing or in -- by telephone? 13 A. Writing and phone. 14 Q. Did you sometimes meet with him? 15 A. Yes. 16 Q. Every month? 17 A. No, whenever it was necessary. 18 Q. How many times a year on average? 19 A. Three or four. 20 Q. Did you speak with Mr. Igonet or his assistant 21 about the relationship with either Laboratorios 22 Belmac or Bentley? 23 A. With Belmac Labs, yes, but with Bentley Labs, 24 no, there was no relationship with Bentley Labs.</p>	<p style="text-align: right;">Page 72</p> <p>1 How often did you speak with Roseline Joannesse 2 about issues relating to the manufacture of 3 omeprazole? 4 A. With Roseline Joannesse, we only spoke, you 5 know, the subject of contracts. 6 Q. Do you -- how often did you discuss the subjects 7 of contracts with Roseline Joannesse? 8 A. You know, it was not I, you know, speaking with 9 her directly all the time. Sometimes, you know, 10 it was Mr. De Basilio and sometimes I was 11 involved. Roseline spoke Spanish perfectly and 12 Catalan also. 13 MR. STEWART: Excuse me. Was that 14 Catalan? Was it the language or -- 15 THE TRANSLATOR: Oh, sorry. 16 MR. STEWART: That's what I thought, 17 but I heard Catalan. 18 THE TRANSLATOR: When he say language, 19 I'm thinking that she spoke Spanish and Catalan, 20 but he was talking about two people actually. 21 So I just want to clarify. 22 I just explained to him the same thing 23 I explained to you. 24 Correction. He meant that Roseline</p>
<p style="text-align: right;">Page 71</p> <p>1 Q. Did you ever speak with Mr. Igonet about the 2 conversation you had with Mr. Murphy? 3 A. Never. You know, it wasn't related to them. It 4 was just a presentation. 5 Q. It wasn't related to who? I'm sorry. 6 A. The first and only meeting that we had with 7 Mr. Murphy in terms of me meeting both. It was 8 a meeting to get to know each other. You know, 9 that was the purpose, just to know each other. 10 There was nothing beyond that, so there was 11 nothing to talk about. 12 Q. Did you -- I'm sorry. Who was the other person 13 you said you spoke with? Eric Igonet? 14 THE WITNESS: Katherine Calami. 15 Q. And was there one other? 16 THE WITNESS: Roseline Joannesse. 17 THE TRANSLATOR: Do you want me to 18 interpret all of this or no? 19 MR. BOSTWICK: Yes. 20 THE TRANSLATOR: So Dwight asked him 21 who were the persons that he conversed with, and 22 Mr. Alvarez clarified it was Eric Igonet, 23 Katherine Calami, and Roseline Joannesse. 24 Q. Let me just ask you about Roseline Joannesse.</p>	<p style="text-align: right;">Page 73</p> <p>1 Joannesse and Katherine Calami, both of them 2 spoke perfect Spanish. 3 Q. The subjects that you discussed with Roseline 4 Joannesse are likely to be privileged and 5 protected because Miss Joannesse was a legal 6 advisor to Ethypharm. So I'm not asking you the 7 subject of your discussions, but I want to ask 8 you how often you spoke with Roseline Joannesse 9 while you worked at Ethypharm. 10 A. It wasn't at a specific period of time that I 11 spoke with him -- 12 MR. STEWART: Her. 13 A. -- with her. She basically had access to 14 commercial contracts. 15 Q. Okay. And how often would you speak with her 16 or -- 17 THE TRANSLATOR: He had not finished. 18 Q. Oh, I'm sorry. 19 A. She had or her functions were to revise these 20 commercial contracts, although she was not an 21 attorney. So, you know, when Adolfo de Basilio 22 talked about it and we couldn't get to an 23 understanding or agreement, then Roseline got 24 involved.</p>

Page 74

Page 76

1 MR. STEWART: Before you go on, as
 2 counsel for Mr. Alvarez, I want to make clear
 3 one point. Mr. Bostwick has asked you not to
 4 reveal the subject of the communications between
 5 Roseline Joannesse and yourself because he
 6 believes that those communications are
 7 privileged as part of the attorney-client
 8 privilege. And so in answering Mr. Bostwick's
 9 questions regarding time and frequency of
 10 contacts, respect his request not to disclose
 11 the substance of the conversation. Obviously,
 12 this will not apply to questions which
 13 Mr. Bostwick may ask you regarding substance of
 14 conversation. If he asks you, you can answer
 15 the question.

- 16 A. Please excuse me, Mr. Bostwick. And up to now,
 17 with what I have shared with you, I have said
 18 something that could have been confidential.
 19 Q. Let's do this very simply, and I appreciate the
 20 clarification. I simply want to know how
 21 frequently did you speak with Miss Joannesse
 22 while you were employed at Ethypharm. On
 23 average, once a month, once a year?
 24 A. It wasn't defined. The person in charge to

- 1 A. If we read the first paragraph, it's stated it's
 2 a response to a fax from Mr. Igouet dated
 3 December 16th, 1996.
 4 Q. Do you recall why you were writing about the
 5 negotiations with Laboratorios Belmac around
 6 December of 1996?
 7 A. Do you have the document in English?
 8 Q. Yes.
 9 A. Have you understood the document perfectly?
 10 Q. Well, why don't I get your understanding of what
 11 this document is trying to express.
 12 A. It seems to me, but I can't remember, but it
 13 seems to me this document is part of a chart.
 14 It goes with a chart that is not here, which at
 15 this chart must -- something must have been
 16 defined -- supposedly something is defined of
 17 manufacturing costs if we would become
 18 independent of Belmac, and that supposed
 19 statement, I understand it is being utilized for
 20 the negotiations with Belmac, but normally, I
 21 understand that it is according to the price and
 22 supplies of Belmac -- with Belmac. Excuse me.
 23 With Belmac, but not in the contract or in terms
 24 towards a contract.

Page 75

Page 77

1 speak with Roseline Joannesse, it was Mr. De
 2 Basilio. And on some occasions, maybe I was
 3 called to participate on these conversations.
 4 You know, I could have conversed with her maybe
 5 twice a year, but maybe on another given year,
 6 maybe there were five. So I don't remember.
 7 Q. Thank you. Let me show you another document.
 8 Hopefully, I have the right language.

9 (Letter to Mr. Igouet, et al. from
 10 Mr. Alvarez, dated December 17, 1996 was
 11 marked Exhibit Number 2 for
 12 identification.)

- 13 Q. Do I have Spanish this time?
 14 A. Yes, thank God.
 15 Q. I'll give you a minute to look at that document.
 16 Then I'll ask you a few questions. Okay?
 17 A. It's a very complicated document.
 18 Q. First, do you recognize this document,
 19 Exhibit 2?
 20 A. Yes. I wrote it.
 21 Q. And did you write it around December 1996?
 22 A. Right here, it's dated December 17, 1996.
 23 Q. What do you recall about the issues that led to
 24 your writing this document?

1 You know, also it's a coincidence that
 2 the production of this document has taken place
 3 on the month of December of 1996, and most
 4 likely during this period of time, we were
 5 working with the budgets for 1997.

- 6 Q. I think you used the word it's a coincidence in
 7 1996. Did I hear that correctly?
 8 A. No, it's a coincidence in December of 1996.
 9 That is when we developed the budgets. When I
 10 used the word "coincidence," it is because I
 11 don't remember this document. I don't remember
 12 the chart that should go with this document. I
 13 don't remember the prior document that came --
 14 that this document came from.
 15 Q. There's a small chart on Exhibit 1. Does this
 16 have anything to do with your December 1996
 17 letter to Mr. Igouet?
 18 A. Of course.
 19 Q. Can you describe for me how the chart on
 20 Exhibit 1 relates to the substance of the ideas
 21 expressed in Exhibit 2?
 22 A. Okay. But it seems to be that there's one
 23 document that will have fallen between these two
 24 documents in the middle that is missing.

20 (Pages 74 to 77)

Page 78

Page 80

1 Document Number 1 is dated December 13, 1996,
 2 and Document Number 2 is dated December 17,
 3 1996, but the document dated December 17
 4 reflects to a document dated December 16, and,
 5 of course, we're missing the chart that goes
 6 along with this fax in order to be able -- to
 7 have a better understanding. Of course, I
 8 haven't read in detail this document. I just
 9 briefly read the document. So this gives me an
 10 idea or thought that prior to the document dated
 11 December 13, 1996, there was a budget regarding
 12 the year 1997. And then, Mr. Igonet submit a
 13 comment in regards to what will happen -- in
 14 regards to the comments that I made on that
 15 prior document.

16 Q. Okay. So that's Exhibit 1 that you're referring
 17 to?
 18 A. Then in between Document 1 and Document 2, we
 19 know there's at least one document that exists,
 20 but we don't know if there's two documents that
 21 exist. At Document Number 2, what is defining
 22 is how will the results be for Ethypharm without
 23 Belmac. So it's a series of documents that
 24 among them will define a strategy to negotiate

1 A. What I'm saying is that I worked the numbers and
 2 the financial analysis that could be used by
 3 Mr. De Basilio as tools to negotiate with
 4 Belmac, and I could have been part of some of
 5 this meeting.

6 Q. And were you and Mr. De Basilio asking for
 7 advice from Ethypharm France for the negotiation
 8 strategy with Belmac?

9 A. Most likely, as we had mentioned before, we had
 10 a series of documents, which means or most
 11 likely meant that the document prior to Document
 12 Number 1, which most likely was a budget, was
 13 not in agreement to Mr. Igonet's expectations.
 14 So for that reason, he makes some comments on
 15 these documents, but it's part of the day-to-day
 16 work.

17 Q. Do you recall --
 18 MR. BOSTWICK: Actually, why don't we
 19 go off the record for a moment.

20 THE VIDEOGRAPHER: The time is
 21 12:23 p.m. We're going off the record.
 22 (Luncheon recess)

23 THE VIDEOGRAPHER: The time is
 24 1:12 p.m. on July 27th, 2006. This is the end

Page 79

Page 81

1 the prices for year 1997 with Belmac Labs.
 2 Q. Okay. On Page 2 of Exhibit 2, it says, "With
 3 this and considering the information we have as
 4 of today" -- I'm sorry, the second to last
 5 paragraph -- "regarding the negotiations with
 6 Belmac, we ask for directives to follow for a
 7 negotiation with Belmac." Do you see that?

8 A. Yes.
 9 Q. Were you as Ethypharm Spain asking for Ethypharm
 10 France to provide direction in your negotiations
 11 with Belmac?

12 A. No. I developed the numbers.

13 THE TRANSLATOR: There's a word that
 14 I'm not sure of what he means.

15 What did I say so far?

16 (The reporter read back the answer.)

17 A. I developed the analysis of what the numbers
 18 will be.

19 THE TRANSLATOR: He forgot the end of
 20 his answer. So far, we have that he developed
 21 the numbers and the analysis.

22 MR. BOSTWICK: Why don't we ask the
 23 question again?

24 (Reporter read back the last question.)

1 of Tape Number 2.

2 (Luncheon recess continued.)

3 THE VIDEOGRAPHER: The time is
 4 1:27 p.m. on July 27th, 2006. This is tape
 5 Number 3.

6 Q. Welcome back, Mr. Alvarez.

7 A. Thank you. Same to you.

8 Q. Referring to your time when you were employed at
 9 Ethypharm, was it your understanding that Adolfo
 10 de Basilio was responsible -- the responsible
 11 person at Ethypharm Spain for negotiating with
 12 Laboratorios Belmac?

13 A. Yes.

14 Q. Did you have a responsibility for negotiating
 15 directly with Belmac?

16 A. No.

17 Q. Did you understand that people at Ethypharm
 18 France had direct discussions with Jim Murphy
 19 regarding the relationship between Ethypharm
 20 Spain and Laboratorios Belmac?

21 MR. STEWART: Objection. What time
 22 are you looking for that understanding?

23 Q. At any time while you were employed at Ethypharm
 24 Spain.

21 (Pages 78 to 81)

Page 82

- 1 A. Yes, I believe that they had some meeting.
 2 Q. Do you recall any specific meetings or occasions
 3 where people from Ethypharm France spoke with
 4 Jim Murphy?
 5 A. That I was present?
 6 Q. Well, let's start with that.
 7 A. Okay. I remember one meeting.
 8 Q. Can you tell me about it?
 9 A. It was a meeting that took place at Ethypharm
 10 Spain, and I have a vague memory of a meal --
 11 very brief meal that we had at the restaurant
 12 located at the bottom level by the name of Rio
 13 Frio.
 14 Q. And who was in attendance at that meal?
 15 THE WITNESS: Senor de Basilio, Senor
 16 Gonzalez, Senor Pierre Germain, Senor Adolfo
 17 Herrera, and Senor Murphy, (spanish).
 18 Q. Do you recall when --
 19 MR. BOSTWICK: I'm sorry.
 20 A. Mr. De Basilio, Mr. Gonzalez, Pierre Germain,
 21 Adolfo Herrera, Mr. Murphy, Fernando Berenguer,
 22 but I'm not sure if Fernando was present.
 23 Q. Do you recall if --
 24 A. And then myself.

Page 84

- 1 A. Since I don't remember exactly of the second
 2 time, we could assume that this time was the
 3 second time or that there was one more time that
 4 I saw him, like a third time.
 5 Q. To be clear, there's one meeting that you
 6 remember very specifically in 1994 and 1995.
 7 A. Yes.
 8 Q. And we discussed that?
 9 A. Yes, correct.
 10 Q. And this meal in 2000, you can remember nothing
 11 more than what you've just told me; is that
 12 correct?
 13 A. I can speak a little bit more about the picture
 14 that I have in my mind in regards to that date,
 15 but it's very vaguely.
 16 Q. Please do. Do you remember where you were
 17 sitting or who was sitting next to whom?
 18 A. Those details that you mentioned about, I don't
 19 remember, but I do remember that on that day
 20 Pierre Germain came for the first time to the
 21 Ethypharm offices in France that I had seen him.
 22 MR. STEWART: Excuse me. Came to the
 23 office Ethypharm France?
 24 THE TRANSLATOR: Ethypharm Spain.

Page 83

- 1 Q. Do you recall the date of that meeting or meal?
 2 A. No. I honestly don't.
 3 Q. Can you give me a year?
 4 A. Mr. Pierre Germain was at the company for a
 5 short period of time. So based on that, I can
 6 determine that the meeting must have taken place
 7 somewhere between 1999 and 2000.
 8 Q. Did that -- did everybody sit at the same table
 9 at that meeting?
 10 A. Yes.
 11 Q. Did the conversation take place in English or
 12 Spanish or both?
 13 A. Yes, both languages.
 14 Q. Do you recall anything that was discussed at
 15 that meal?
 16 A. No. It was a very short meal. We didn't
 17 discuss any specifics. You know, it was a brief
 18 meal. We were kind of like rushing because some
 19 of them had to go in order to catch planes,
 20 others arrived late.
 21 Q. I want to be clear about your earlier testimony.
 22 You had said that you had seen or met Mr. Murphy
 23 on two occasions. Is this a third occasion or
 24 is it one of the first two?

Page 85

- 1 A. We prepared a presentation. The presentation
 2 was about Ethypharm Spain so he would get to
 3 know what Ethypharm Spain was all about, and we
 4 had planned a meal with the people from
 5 Laboratorios Belmac. I suppose that because of
 6 the difference of meal times in between Spain
 7 and France, Pierre Germain was expecting the
 8 meal to happen early in the day, and he had his
 9 airplane time soon afterwards. So when we
 10 arrived, we ate rapidly, and Pierre Germain took
 11 off. So we didn't discuss anything in depth at
 12 that meeting. That's what I remember.
 13 Q. Did you give a presentation to Mr. Germain about
 14 the Ethypharm Spain operations on this occasion?
 15 A. No.
 16 Q. Did you meet separately with Mr. Germain before
 17 meeting with Mr. Murphy and people from
 18 Laboratorios Belmac?
 19 A. By myself?
 20 Q. Did anyone meet with Mr. Germain before you had
 21 your dinner?
 22 A. As I mentioned before, we had a presentation at
 23 the Ethypharm Spain offices for Mr. Germain.
 24 Q. Okay. So you did give that presentation to

<p style="text-align: right;">Page 86</p> <p>1 Mr. Germain before the meal?</p> <p>2 A. As I remember, yes.</p> <p>3 Q. Who was at that presentation?</p> <p>4 A. I believe that Mr. De Basilio, Mr. Gonzalez, and 5 myself were present at least.</p> <p>6 Q. And Mr. Germain?</p> <p>7 A. Of course.</p> <p>8 Q. Anyone else from Ethypharm France?</p> <p>9 A. That I remember, no.</p> <p>10 MR. STEWART: Can we clarify who 11 Mr. Gonzalez is at this meeting?</p> <p>12 Q. Is Mr. Gonzalez that you're referring to 13 Clemente Gonzalez Azpetia?</p> <p>14 A. No, it was Mr. Eloi Gonzalez.</p> <p>15 Q. And Eloi Gonzalez was working for Ethypharm 16 Spain, correct?</p> <p>17 A. Yes.</p> <p>18 Q. Was anyone from Bentley or Laboratorios Belmac 19 present during this presentation to Mr. Germain?</p> <p>20 A. No.</p> <p>21 Q. And after you had the presentation, then you met 22 Mr. Murphy and others from Laboratorios Belmac?</p> <p>23 A. Yes, we had the meal.</p> <p>24 Q. Do you recall discussing anything about the</p>	<p style="text-align: right;">Page 88</p> <p>1 1997, do you recall Ethypharm giving notice to 2 Laboratorios Belmac that they would terminate 3 the manufacturing relationship?</p> <p>4 A. Yes.</p> <p>5 Q. What do you recall about the circumstances that 6 led to that event?</p> <p>7 A. It was a problem in terms of profitables.</p> <p>8 Q. Profitability?</p> <p>9 THE TRANSLATOR: Yes, profitability.</p> <p>10 MR. BOSTWICK: Profitability. I think 11 that's what he said. Correct?</p> <p>12 THE TRANSLATOR: Yes.</p> <p>13 Q. When you say it was a problem of profitability, 14 what do you mean specifically?</p> <p>15 A. What I'm referring to is that the business at 16 that moment with Belmac Labs was not bringing 17 benefits.</p> <p>18 Q. For Ethypharm?</p> <p>19 A. Yes, for Ethypharm, correct.</p> <p>20 Q. Do you recall that there was a problem with 21 Laboratorios Belmac not being able to comply 22 with good manufacturing practices?</p> <p>23 A. Yes, we were working together to make sure that 24 we will be able to bring manufacturing practices</p>
<p style="text-align: right;">Page 87</p> <p>1 operations of Laboratorios Belmac at the meal?</p> <p>2 A. No, I don't remember a thing.</p> <p>3 Q. Is it fair to say you simply don't recall the 4 discussion at the dinner or the meal?</p> <p>5 A. Correct. I don't recall any conversation that 6 happened during the meeting. It was a very 7 short meal, and nothing in specific comes to 8 memory.</p> <p>9 Q. Let me --</p> <p>10 THE TRANSLATOR: Last week, it was a 11 meal. Correction. "Comida" means lunch, not 12 meal.</p> <p>13 MR. BOSTWICK: It is funny because I 14 do remember last week they corrected you and 15 said meal. So it's hard to win.</p> <p>16 Q. But you mean lunch? It was -- you mean that you 17 had lunch with the people from Laboratorios 18 Belmac and Mr. Murphy, correct?</p> <p>19 A. Yes.</p> <p>20 Q. What time of day was this approximately?</p> <p>21 A. In Spain, we eat at 2:30. So based on that, I'm 22 imagining that we ate at 2:30. In France, they 23 eat around 12:30, I.</p> <p>24 Q. Let me take you to another time period. Around</p>	<p style="text-align: right;">Page 89</p> <p>1 to compliance, but that was not the issue. That 2 was not the problem. That was a small problem, 3 but the main problem was that the correct 4 quantity was not being manufactured to make it 5 profitable for Ethypharm.</p> <p>6 Q. How did you gain this understanding?</p> <p>7 A. I myself analyzed this situation.</p> <p>8 Q. Were Exhibits 1 and 2 some of the documents that 9 relate to this particular situation?</p> <p>10 A. Yes.</p> <p>11 Q. Let me show you another document. 12 (Fax to Mr. Gonzalez from Mr. De 13 Basilio, dated January 20, 1997 was 14 marked Exhibit Number 3 for 15 identification.)</p> <p>16 A. Can I read it?</p> <p>17 Q. Please.</p> <p>18 A. Very good.</p> <p>19 Q. Have you ever seen this document?</p> <p>20 A. Yes.</p> <p>21 Q. When did you see this document?</p> <p>22 A. Well, I saw it when it was submitted because I 23 was working for the company, and I saw this 24 document.</p>

<p style="text-align: right;">Page 90</p> <p>1 Q. And this is a document that was sent from the 2 general manager of Ethypharm Spain to the 3 general manager of Laboratorios Belmac, correct? 4 A. Obviously, yes. 5 Q. And it was sent around January 20th, 1997, 6 correct? 7 A. Yes, as this is dated in the document. 8 Q. Does this document refresh your memory of some 9 of the issues that led to Ethypharm to give 10 notice of termination? 11 MR. STEWART: Objection as to form. 12 You may answer. 13 A. As best as I can understand, this document is 14 reflecting what I had mentioned to you prior to 15 seeing the document. 16 Q. Do you remember anything else about this event 17 having seen this document? 18 A. No. 19 Q. Did you have conversations with anybody at 20 Laboratorios Belmac about this letter? 21 A. This negotiation was done by Mr. De Basilio 22 directly in conjunction with Mr. Dubois. 23 Q. And who is Mr. Dubois? 24 A. I don't exactly know the position of Mr. Dubois</p>	<p style="text-align: right;">Page 92</p> <p>1 U.S., which is Bentley Pharmaceuticals? 2 A. I understand, yes. 3 Q. Do you recall whether a response came to this 4 letter? 5 A. I don't remember exactly, but this letter forced 6 the issue of better manufacturing result at 7 Belmac. 8 Q. You said that Adolfo de Basilio had bosses in 9 Ethypharm France, correct? 10 A. Yes. 11 Q. Was Mr. Clemente Gonzalez's boss -- 12 (The translator began to translate.) 13 Q. No, was Mr. Clemente Gonzalez's boss, Jim 14 Murphy, in the United States? 15 A. I don't know. Mr. Clemente Gonzalez was the 16 general manager at Laboratorios Belmac in Spain. 17 Q. When you see this line, "We ask you to transmit 18 these decisions to your mother company in the 19 U.S.," who did you understand that this letter 20 would be sent to at Bentley? 21 A. I cannot answer this question because I didn't 22 even remember the existence of this paragraph at 23 that time. 24 Q. Did you understand that Mr. Gonzalez consulted</p>
<p style="text-align: right;">Page 91</p> <p>1 at Ethypharm France, but I do know it was like a 2 top management position. 3 Q. The first sentence of this exhibit says that, 4 "We have been summoned by our mother company to 5 take a decision regarding the pending matters 6 with Belmac and for the presentation of the 1997 7 budgets." 8 Is it true that Ethypharm France 9 participated in this decision to send this 10 letter? 11 A. Obviously, because Mr. Dubois worked on this 12 issue with Mr. De Basilio, and Mr. Dubois worked 13 for Ethypharm France. And the general manager 14 and the decision-maker in Spain, it was Mr. De 15 Basilio, but his bosses were at Ethypharm 16 France. 17 Q. And I ask you to look at the second to last 18 sentence there, which says, "We ask you to 19 transmit these decisions to your mother company 20 in the U.S." Do you see that? 21 A. Uh-huh. 22 Q. Do you understand that to mean that the subject 23 of this letter is going to be transmitted to 24 Laboratorios Belmac's mother company in the</p>	<p style="text-align: right;">Page 93</p> <p>1 with Mr. Murphy in the U.S. regarding important 2 issues in the context of the relationship with 3 Ethypharm? 4 A. If I answer to this question, it basically will 5 be a speculation on my part because I did not 6 have the information to be able to answer this 7 question. 8 Q. Would Mr. Basilio -- Adolfo de Basilio know the 9 answer to that? 10 A. I don't know. 11 Q. When you look at this sentence, "We ask you to 12 transmit these decisions to your mother company 13 in the U.S.," do you know who at Bentley would 14 be receiving this letter? 15 A. At which time? 16 Q. In 1997. 17 A. What my thought had been in the year 1997? 18 Q. Yes. 19 A. I would not know. 20 Q. Is your answer different today? 21 A. Today, I am more knowledgeable in depth of the 22 Belmac company. 23 Q. What do you understand today about where this 24 letter would go?</p>

Page 94

Page 96

- 1 A. Today, I will understand that Ethypharm Spain is
 2 sending a letter to Belmac Spain and is
 3 communicating a series of issues that is
 4 requesting to be sent to the parent company in
 5 the United States. If the letter is transmitted
 6 or not is a decision of the general manager at
 7 Belmac.
- 8 Q. Do you recall any response coming from -- to
 9 Ethypharm from either Bentley Pharmaceuticals in
 10 the U.S. or Laboratorios Belmac in Spain?
- 11 A. I would not know in specific. What I do
 12 remember is that during these negotiations, we
 13 were discussing or getting to an agreement of a
 14 minimal quantity of manufacturing that will
 15 happen at Belmac.
- 16 Q. Do you recall whether Claude Dubois flew to the
 17 United States to meet directly with Jim Murphy?
- 18 A. No, I was not aware of Mr. Dubois' activities.
- 19 Q. Let me show you another document.
 20 (Fax to Mr. DeBregesas from Mr. Murphy,
 21 dated January 28, 1997 was marked
 22 Exhibit Number 4 for identification.)
- 23 Q. Mr. Alvarez, this is a document in English, and
 24 I would ask you to look through it briefly; and

- 1 translator translate for you, and then I'll ask
 2 you a couple of questions.
- 3 A. Can I read it?
- 4 Q. Yes.
- 5 A. Can I take a moment to read it completely?
- 6 Q. Certainly.
- 7 A. I just read it.
- 8 Q. With respect to the first two sentences, do you
 9 need the translator's help translating that?
- 10 A. I believe that most important subject matter, I
 11 have understood.
- 12 Q. When Mr. Murphy says, "Ever since I assumed
 13 control of Laboratorios Belmac, I have received
 14 nothing but extremely positive comments from
 15 your Spanish staff, specifically Senor Basilio,
 16 who said that the Belmac operations is now more
 17 efficient, more cooperative, more pleasant to
 18 work with, and beyond this, he noted our high
 19 degree of sincerity and integrity."
- 20 Do you understand that to mean that he
 21 assumed control of Laboratorios Belmac around
 22 the time of your meeting with him in 1994?
- 23 A. Mr. Murphy as a person himself, yes.
- 24 Q. But this is not a letter you have seen before

Page 95

Page 97

- 1 I'll ask you a couple questions about it. And
 2 we can use our translator to assist us if
 3 necessary.
- 4 My first question is, do you recognize
 5 this document as a document you have seen
 6 before?
- 7 A. No, I don't remember.
- 8 Q. You believe you have never seen this document
 9 before?
- 10 MR. STEWART: I assume your question
 11 means outside of the preparation for this
 12 deposition.
- 13 Q. Yes, outside the preparation. And let me be --
 14 let me state the question again to be clear.
 15 Other than in the last week, do you remember
 16 ever seeing this document before?
- 17 A. No, no. Honestly, I don't.
- 18 Q. You see that this is a document from Mr. James
 19 Murphy, chairman and CEO of Bentley
 20 Pharmaceuticals, and it's to Mr. DeBregesas,
 21 correct? Do you understand that?
- 22 A. Yes.
- 23 Q. I'm just going to refer your attention to the
 24 first two sentences, which I will have our

- 1 last -- this past week, correct?
- 2 A. That I remember of, no.
- 3 Q. I want to focus your attention on an incident
 4 that took place in 1999. Do you recall a
 5 situation where Clemente Gonzalez gave
 6 interviews to certain Spanish newspapers
 7 regarding pelletization?
- 8 A. Yes.
- 9 Q. And do you recall people at Ethypharm being
 10 upset about those newspaper articles?
- 11 A. I remember Mr. Basilio, he was -- I remember
 12 Mr. Basilio was the one that found about it, and
 13 he made a lot of noise about this issue.
- 14 Q. Is it your memory that Mr. De Basilio found the
 15 articles?
- 16 A. At least he was the one that showed it to us.
- 17 Q. What do you recall about Mr. De Basilio's
 18 reaction to the articles?
- 19 A. He felt personally offended.
- 20 Q. Why?
- 21 MR. STEWART: Objection as to witness'
 22 speculation as to the feelings of Mr. De
 23 Basilio.
- 24 MR. BOSTWICK: That's fair.

25 (Pages 94 to 97)

<p style="text-align: right;">Page 98</p> <p>1 Q. What did Mr. De Basilio say about why he was 2 offended by these articles? 3 A. As I said, he made a lot of noise, and he 4 transmitted this information to the parent 5 company in France. And the way we saw this was 6 this was going to create a lot of noise, and it 7 was going to result in again having difficult 8 relationships among our companies. 9 I personally made the comment to him 10 that it wasn't such a big deal, what these 11 articles were talking about, that Belmac was 12 working more to sell more and it will have 13 benefit to all of us. 14 Q. Do you recall his -- Mr. De Basilio's response 15 to your observation? 16 A. I don't remember. Maybe he didn't respond to 17 me. You know, he was the boss. 18 Q. When you say he made a lot of noise, what do you 19 mean by that? 20 A. That he transmitted it as he was personally 21 offended. So he made a reaction to happen at 22 the parent company. 23 Q. Did you ever speak with anybody at -- well, 24 strike that. What parent company are you</p>	<p style="text-align: right;">Page 100</p> <p>1 requested.) 2 Q. Just to be clear, Mr. Alvarez, when you say, "He 3 requested an apology," you mean Adolfo de 4 Basilio requested an apology? 5 A. Yes. 6 Q. And he received an apology from someone from 7 Laboratorios Belmac -- 8 MR. STEWART: Objection. 9 Q. -- but you don't know who that person was; is 10 that correct? 11 MR. STEWART: Objection, 12 mischaracterization of testimony. 13 A. You know, honestly, I don't remember who he sent 14 it to, who responded, you know. I just don't 15 know in regards to Belmac, you know, who 16 responded. 17 Q. Let me -- you have had an opportunity to take a 18 look at Exhibit Number 5? 19 A. Do I need to read the articles? 20 Q. No. I would ask if you recognize those as 21 the -- generally the articles we've been talking 22 about. 23 A. Honestly, I don't think that I ever read them. 24 I knew of their existence, but I don't think I</p>
<p style="text-align: right;">Page 99</p> <p>1 talking about? 2 A. Ethypharm France. 3 Q. Did you ever speak with anybody at Ethypharm 4 France about this incident? 5 A. You know, later on, it just kind of evolved by 6 itself normally. So we just kept working. 7 Q. Let me show you another -- 8 A. He requested an apology from Laboratorios Belmac 9 in regards to this incident. 10 Q. Did he receive such an apology? 11 A. Yes. 12 Q. From who? 13 A. I don't remember. 14 Q. Let me show you another document. 15 (Fax to Mr. Rodriguez from 16 Ms. Joannes, dated April 8, 1999 was 17 marked Exhibit Number 5 for 18 identification.) 19 MR. STEWART: Could I have the -- not 20 just this last question but the question before 21 the last one back, please? 22 MR. BOSTWICK: Question and answer? 23 MR. STEWART: Yes. 24 (Reporter read back the record as</p>	<p style="text-align: right;">Page 101</p> <p>1 ever read them. 2 Q. Okay. Do you remember seeing this letter from 3 Patrice DeBregeas at Ethypharm France to James 4 Murphy at Bentley Pharmaceuticals? 5 (The translator began to translate.) 6 A. That I received? 7 Q. Let's finish the question first. Do you recall 8 ever seeing this document? 9 A. No, honestly, I don't remember. 10 Q. Other than in the last week, do you have any 11 memory of ever seeing this document before? 12 A. No, I don't remember this document. 13 Q. Do you remember discussing this document with 14 Adolfo de Basilio or anyone at Ethypharm France? 15 A. No. 16 Q. You've testified that Mr. De Basilio felt 17 personally offended by the articles, correct? 18 A. Yes. 19 Q. Did you ever talk to anybody at Ethypharm France 20 about how they viewed the articles? 21 A. That I remember? No. 22 Q. And is it true that you don't recall having any 23 discussions with anyone at Bentley or 24 Laboratorios Belmac about these articles?</p>

<p style="text-align: right;">Page 102</p> <p>1 A. No. No, I don't remember. I don't remember 2 having had a conversation. I don't know if 3 maybe there were comments going around, but I 4 just don't remember having a conversation. 5 Q. Referring to the second paragraph on Page 9114, 6 the first two sentences say, "Ethypharm Spain, 7 'Ethypharm,' places great value in its 8 intellectual property. That is why we entered 9 into confidential disclosure agreements with 10 Belmac."</p> <p>11 Do you agree that while you were 12 working at Ethypharm Spain that Ethypharm placed 13 great value on its intellectual property?</p> <p>14 A. Yes.</p> <p>15 Q. And that Ethypharm was careful to enter into 16 confidential disclosure agreements with Belmac?</p> <p>17 A. Yes. Yes, they always intended to have it.</p> <p>18 Q. And do you recall that there were a number of 19 confidentiality agreements signed by 20 Laboratorios Belmac indicating that the 21 technology, the know-how, and processes used to 22 manufacture omeprazole was the property of 23 Ethypharm?</p> <p>24 MR. STEWART: Objection; general,</p>	<p style="text-align: right;">Page 104</p> <p>1 THE VIDEOGRAPHER: The time is 2 2:40 p.m. We're back on the record. 3 Q. Mr. Alvarez, when we broke, we were talking 4 about the fact that Laboratorios Belmac had 5 signed various confidentiality agreements, 6 acknowledging that the manufacturing method 7 technology and know-how for omeprazole was the 8 property of Ethypharm, and you had indicated -- 9 well, let me ask you to look at Exhibits 6 and 10 7. And my question to you is simply, do you 11 recognize Exhibits 6 and 7 as examples of the 12 types of documents I was just referring to? 13 MR. STEWART: Objection as to form. 14 A. Yes, but there were more than that, as I 15 remember. 16 Q. During what period of time were these types of 17 confidentiality agreements and certifications 18 signed by Belmac? 19 A. Which ones, 6, 7 or others? 20 Q. All of them. 21 A. One of these was signed in 1996. The other was 22 signed in 1998. The rest of them were signed 23 when Ethypharm began to have direct clients. 24 MR. BOSTWICK: Let me have the court</p>
<p style="text-align: right;">Page 103</p> <p>1 refers to a collection apparently of documents, 2 nonspecific as to any particular document, 3 nonspecific with respect to context, no 4 foundation.</p> <p>5 Q. You can answer.</p> <p>6 MR. STEWART: And for all that, you 7 can answer the question.</p> <p>8 A. I remember that there many documents were signed 9 from people that were working with or documents 10 that were being used at other countries, but I 11 don't have a picture in my mind of all of them.</p> <p>12 Q. Let me show you --</p> <p>13 MR. BOSTWICK: I take it we don't have 14 a stapler.</p> <p>15 MR. STEWART: We can get a stapler.</p> <p>16 MR. BOSTWICK: Let's break for just 17 one moment.</p> <p>18 MR. STEWART: Can we go off the record 19 for a minute?</p> <p>20 THE VIDEOGRAPHER: The time is 21 2:29 p.m. We're going off the record. 22 (Recess) 23 (Exhibits Numbers 6 - 10 were marked for 24 identification.)</p>	<p style="text-align: right;">Page 105</p> <p>1 reporter -- 2 MR. STEWART: Is that Ethypharm or 3 Laboratorios Belmac began to have direct 4 clients?</p> <p>5 THE WITNESS: (Through translator): 6 Ethypharm began to have direct clients in terms 7 of the manufacturing of omeprazole.</p> <p>8 Q. Let me show you Exhibits 8, 9, and 10. Are 9 these the type of documents you were referring 10 to?</p> <p>11 A. Yes.</p> <p>12 Q. In other words, these were documents that were 13 signed --</p> <p>14 A. Yes, these were the ones.</p> <p>15 Q. So, in other words, these are examples, not all 16 the documents but examples, of where 17 Laboratorios Belmac certifies for Ethypharm's 18 customers that the process of microgranulation 19 technology and know-how for omeprazole was the 20 property of Ethypharm; is that correct?</p> <p>21 MR. STEWART: Objection on a couple of 22 grounds. First, the documents are provided 23 without English translation, so counsel doesn't 24 have the benefit of English translation, with</p>

<p style="text-align: right;">Page 106</p> <p>1 the exception of Exhibit 10. 2 Second, these questions go to -- not 3 to agency but, rather, they go to 4 confidentiality of -- the alleged 5 confidentiality of know-how, trade secrets, and 6 so forth, which are the province of Phase 2. 7 And thirdly, the question is compound and vague. 8 MR. BOSTWICK: Why don't we read the 9 question back so that we can get an answer? And 10 that would be -- assuming I get an answer that 11 is expected, that'll be my last question in this 12 area. 13 (Reporter read back the last question.) 14 MR. STEWART: In addition to the 15 previous objections, objection, assumes facts 16 not in evidence. You may answer. 17 A. Correct. These were the type of documents that 18 us from Ethypharm -- 19 MR. STEWART: We? 20 MR. BOSTWICK: We at Ethypharm? 21 THE TRANSLATOR: We at Ethypharm. 22 A. In effect, these are the type of documents that 23 from Ethypharm we proposed to Belmac Labs to be 24 able to register the products for the clients.</p>	<p style="text-align: right;">Page 108</p> <p>1 Q. But it was extremely important for Ethypharm to 2 get a certification to the paragraph above that, 3 correct, which says, "Ethypharm owns the 4 manufacturing method, the technology, and is the 5 owner of the machinery employed for the 6 manufacturing process of omeprazole pellets. 7 Laboratorios Belmac S.A. has the authorization 8 to employ these machines and to use the know-how 9 for Ethypharm's clients"? 10 MR. STEWART: Objection, objection. 11 Goes to Phase 2 discovery, not to Phase 1 12 discovery, and assumes facts not in evidence. 13 Q. You can answer. 14 A. For sure, for Ethypharm, it was very important 15 to obtain documents signed by Belmac because 16 from the very beginning of the relationships, we 17 never obtained -- we, Ethypharm -- a signed 18 contract. 19 Q. A signed complete contract? 20 A. A signed completed contract. So we will use all 21 our intelligence so we will be able for every 22 single document that we needed for registry 23 purpose, so Belmac will have a confidentiality 24 with us or a recognized confidentiality with us.</p>
<p style="text-align: right;">Page 107</p> <p>1 Because the clients were really not 2 internationally knowledgeable of Ethypharm Labs, 3 they needed a document to be able to register 4 the product at their countries, these three. 5 Document Number 10 is just a regular 6 process that you go through every company as far 7 as I'm concerned. 8 Q. Is it 10 or 7? 9 A. Document 7. And this was a generic document to 10 be able to show the clients from Ethypharm that 11 we were working with the knowledge and 12 supervision of Ethypharm. The most important 13 thing of this document -- 14 Q. And you're talking about Exhibit 7? 15 THE WITNESS: 6. 16 Q. 6, okay. 17 A. The most important thing for this document for 18 those potential clients of Ethypharm, it was 19 precisely Paragraph Number 2. 20 Q. Okay. You're saying that it was important for 21 the clients of Ethypharm's that Laboratorios 22 Belmac was audited regularly by Ethypharm, 23 correct? 24 A. Correct.</p>	<p style="text-align: right;">Page 109</p> <p>1 We worked a lot with this. 2 Q. Let me show you another document, which I 3 believe will be Exhibit 11. 4 (Fax to Mr. DeBreges from Mr. Murphy, 5 dated April 9, 1999 was marked Exhibit 6 Number 11 for identification.) 7 Q. My question to you is whether or not you -- 8 whether or not before this past week, if you 9 have ever seen Exhibit 11 before. 10 A. I don't remember it or maybe I did not remember 11 of it. 12 Q. Do you recall whether Jim Murphy from Bentley 13 responded to Ethypharm regarding the issue of 14 the articles? 15 A. No, I did not remember. 16 Q. Do you recall anything further -- strike that. 17 Do you recall anything other than what we've 18 already discussed about the issue of the 19 articles relating to Belmac and pelletization? 20 A. Microgranulation? The question is not clear to 21 me. 22 Q. If you take a look at Exhibit 5, we've looked at 23 the articles that referred to Belmac technology 24 in the Spanish newspapers, and we talked about</p>

<p style="text-align: right;">Page 110</p> <p>1 Mr. De Basilio being personally offended. And 2 my question is, do you recall anything else 3 about that incident other than what we've 4 discussed?</p> <p>5 A. No.</p> <p>6 Q. Do you recall any instances where people at 7 Laboratorios Belmac said that they needed to 8 wait for authorization from Bentley in the U.S. 9 before they could provide information to 10 Ethypharm?</p> <p>11 A. No.</p> <p>12 Q. Let me show you a document. (Document headed "Confidential" to 13 Mr. Boudal, et al. from Mr. De Basilio 14 was marked Exhibit Number 12 for 15 identification.)</p> <p>16 Q. And I'm simply going to refer you to the third 17 paragraph of this document. Mr. Alvarez, first, 18 do you recognize this as a document that you 19 have seen before?</p> <p>20 A. I don't think I have ever seen this document in 21 my life.</p> <p>22 Q. So there are many examples of documents that 23 Adolfo de Basilio would have sent to Ethypharm</p>	<p style="text-align: right;">Page 112</p> <p>1 (Contrato de Fabricacion was marked 2 Exhibit Number 13 for identification.)</p> <p>3 Q. Actually, I'm going to show you two since they 4 were signed on the same date.</p> <p>5 (Carta de Compromiso de Compra was 6 marked Exhibit Number 14 for 7 identification.)</p> <p>8 Q. And which is which here? (The translator translated.)</p> <p>9 Q. So Exhibit 13 is the manufacturing contract, 10 correct, and Exhibit 14 is the purchase 11 agreement. And I'll ask you if you recognize 12 these documents.</p> <p>13 A. Yes.</p> <p>14 Q. And were you involved in negotiating these 15 agreements?</p> <p>16 A. Together with Mr. De Basilio.</p> <p>17 Q. What was the nature of your involvement?</p> <p>18 A. So we were working on these documents, and it 19 seemed to me that finally we were going to be 20 able to sign a manufacturing agreement and 21 finalize a supply with Belmac Labs -- 22 THE TRANSLATOR: By "fidelizar," he's 23 meaning guaranteed a supply.</p>
<p style="text-align: right;">Page 111</p> <p>1 France that you would not have seen?</p> <p>2 A. Yes, for sure, especially at the last period.</p> <p>3 Q. Okay. And Paragraph 3 refers to a situation 4 where Mr. De Basilio says that he -- that the 5 general manager of Belmac in Spain had told 6 Ethypharm Spain that they needed to wait for 7 Mr. Murphy's authorization as president of the 8 company in the U.S. to receive an organogram or 9 organizational chart. Do you recall that?</p> <p>10 A. I remember having asked Mr. Herrera the 11 organogram, and he sent it to me.</p> <p>12 Q. Do you recall whether or not there was a period 13 that you had to wait for that organogram?</p> <p>14 A. I don't remember.</p> <p>15 Q. And is it true that there were many 16 conversations that Mr. Adolfo de Basilio had 17 with general managers of Belmac that you were 18 not present for?</p> <p>19 A. Of course. I was not at that level.</p> <p>20 Q. You indicated that you were -- you left 21 Ethypharm Spain in June 2001, correct?</p> <p>22 A. June 30th, 2001.</p> <p>23 Q. Let me show you a document that was signed 24 before that time.</p>	<p style="text-align: right;">Page 113</p> <p>1 A. -- the sale of the product to Belmac Labs, not 2 only for these products but for all the products 3 that we were manufacturing at the time.</p> <p>4 Q. And did you participate in conversations with 5 Laboratorios Belmac about -- before the signing 6 of these documents about these documents?</p> <p>7 A. Yes, I believe that we did have a meeting -- we 8 hold a meeting to discuss these two specifically 9 with Mr. Herrera, Mr. De Basilio, and myself.</p> <p>10 Q. Anyone else?</p> <p>11 A. Maybe Mr. Gonzalez was present, but I don't 12 know.</p> <p>13 Q. By Mr. Gonzalez, do you mean Elio Gonzalez or 14 Mr. Clemente Gonzalez Azpetia?</p> <p>15 A. Elio Gonzalez.</p> <p>16 Q. How long did the meeting last?</p> <p>17 A. I don't remember details of the meeting 18 truthfully. I don't even remember for sure if 19 Elio Gonzalez was present. What I can say is we 20 made a proposal for the signature of a generic 21 contract from a model that was sent from France 22 of manufacturing for all the products that at 23 that time we were manufacturing at Belmac Labs. 24 Those documents were sent from Ethypharm France</p>

<p style="text-align: right;">Page 114</p> <p>1 to Ethypharm Spain, and we transmitted those to 2 Belmac Labs. Once the documents were translated 3 into Spanish, for certain products, there were 4 no issues from Belmac Labs, but in terms of 5 omeprazole, it was a very complicated 6 negotiation.</p> <p>7 Q. What made it complicated for omeprazole?</p> <p>8 A. What had taken place during the previous nine 9 years. Belmac did not want to recognize that 10 Ethypharm was owner of the technology and 11 know-how of omeprazole.</p> <p>12 Q. Did they express why?</p> <p>13 A. I don't remember a specific respond (sic). Our 14 history at Ethypharm was nine years of trying to 15 have that contract signed of omeprazole.</p> <p>16 Q. Do you recall anything else about what was said 17 at this meeting?</p> <p>18 A. Well, you know how contracts go. You know, you 19 make notes, you certify, you make more notes, 20 and you certify until you finally get to an 21 agreement, but I cannot remember details.</p> <p>22 Q. How long did the meeting last, if you recall?</p> <p>23 A. No, I don't remember. I'm sorry. On the date 24 of the meeting, the contract was not signed.</p>	<p style="text-align: right;">Page 116</p> <p>1 or Belmac when the termination -- the notice of 2 termination was sent by Laboratorios Belmac in 3 November of 2001; is that correct?</p> <p>4 A. Officially, I was not under contract with 5 Laboratorios Belmac, but I did offer my services 6 as a consultant. You know, I was looking for a 7 job. So I was offering my services as a 8 consultant.</p> <p>9 Q. When did you first offer your services as a 10 consultant for Laboratorios Belmac?</p> <p>11 A. The month of September 2001.</p> <p>12 Q. Did you contact Laboratorios Belmac or did 13 Laboratorios Belmac contact you?</p> <p>14 A. I personally called Mr. Herrera.</p> <p>15 Q. In September of 2001?</p> <p>16 A. Yes, September 2001.</p> <p>17 Q. To offer consulting services?</p> <p>18 A. I offered my services, whatever. You know, I 19 was looking for work, so I asked to him for 20 work, and I had already asked him for work.</p> <p>21 Q. So before September of 2001, you'd already asked 22 Adolfo Herrera if you might work for 23 Laboratorios Belmac; is that correct?</p> <p>24 A. Yes.</p>
<p style="text-align: right;">Page 115</p> <p>1 Q. How long did it take to get the contract signed?</p> <p>2 A. Maybe two weeks, but, you know, I cannot refer 3 to a specific period of time, but what I can say 4 is that it was a very short period of time after 5 the other contracts were signed, if my memory 6 serves me well.</p> <p>7 Q. And when you say after the other contracts were 8 signed, you mean contracts relating to aspirin 9 and other products?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. And you're talking about the fact that it 12 took two weeks or so to sign Exhibits 13 and 14?</p> <p>13 A. No. As I mentioned before, I don't want to be 14 specific of dates -- days.</p> <p>15 Q. But at any rate, Exhibits 13 and 14 were not 16 signed directly at your meeting?</p> <p>17 A. Correct.</p> <p>18 Q. It took longer to sign those documents?</p> <p>19 A. Of course. You know, all contracts have their 20 own life. You know, we were dealing with this 21 for nine years, and finally we were able to sign 22 something.</p> <p>23 Q. If you left Ethypharm in June 30th of 2001, I 24 take it that you were not employed by Ethypharm</p>	<p style="text-align: right;">Page 117</p> <p>1 Q. When was the first time you and Mr. Herrera 2 discussed the possibility that you might work 3 for Laboratorios Belmac?</p> <p>4 A. We didn't talk about it. You know, I asked him, 5 "Once I leave Ethypharm, could you have a 6 position for me?" And he said that not at the 7 moment. And then I asked him to keep me in 8 mind.</p> <p>9 Q. So is it true that the first time you spoke with 10 Adolfo Herrera about this, you were working at 11 Ethypharm?</p> <p>12 A. Yes.</p> <p>13 Q. How -- how far before June of 2001 was this?</p> <p>14 A. I don't remember. You know, it was a passing 15 comment, you know, after one of the meetings. 16 You know, I kind of said, "Do you have a job for 17 me?" But we didn't go into details. Since the 18 month of January, I had already been informed 19 that I was going to be let go at the company.</p> <p>20 Q. So as of January of 2001, you knew that you 21 would be leaving Ethypharm Spain; is that true?</p> <p>22 A. I was going to be let go, fired.</p> <p>23 THE TRANSLATOR: I didn't want to be 24 so harsh.</p>